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9–19–06 Tuesday
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24254; Directorate Identifier 2006–CE–24–AD; Amendment 39–14767; AD 2006–19–10]

RIN 2120–AA64

Airworthiness Directives; Cirrus Design Corporation Models SR20 and SR22 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) that supersedes AD 2005–17–19, which applies to certain Cirrus Design Corporation (CDC) Models SR20 and SR22 airplanes. AD 2005–17–19 currently requires you to measure and adjust the crew seat break-over bolts and to replace the crew seat recline locks on both crew seats. Since we issued AD 2005–17–19, CDC developed new crew seat break-over pins to replace the old crew seat break-over bolts. Consequently, this AD retains the action from AD 2005–17–19 of replacing the crew seat recline locks on both seats and adds the action of replacing the crew seat break-over bolts with the new crew seat break-over pins on both seats. We are issuing this AD to prevent the crew seats from folding forward during emergency landing dynamic loads with consequent occupant injury.

DATES: This AD becomes effective on October 24, 2006.

As of October 24, 2006 the Director of the Federal Register approved the incorporation by reference of Cirrus Design Corporation Service Bulletin SB 2X–25–17 R1, Issued: December 15, 2005, Revised: January 20, 2006.

As of October 13, 2005 (70 FR 51999, September 1, 2005), the Director of the Federal Register previously approved the incorporation by reference of Cirrus Design Corporation Service Bulletin SB 2X–25–06 R4, Issued: August 13, 2004; Revised: May 5, 2005.

ADDRESSES: To get the service information identified in this AD, contact Cirrus Design Corporation, 4515 Taylor Circle, Duluth, Minnesota 55811; telephone: (218) 727–2737; Internet address: *http://www.cirrusdesign.com.*

To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001 or on the Internet at *http://dms.dot.gov.* The docket number is FAA–2006–24254; Directorate Identifier 2006–CE–24–AD.

FOR FURTHER INFORMATION CONTACT:

• Wess Rouse, Small Airplane Project Manager, ACE–117C, Chicago Aircraft Certification Office, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; telephone: (847) 294–8113; facsimile: (847) 294–7834; e-mail: *wess.rouse@faa.gov;* or

• Angie Kostopoulos, Composite Technical Specialist, ACE–116C, Chicago Aircraft Certification Office, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; telephone: (847) 294–7426; facsimile: (847) 294–7834; e-mail: *evangelia.kostopoulos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On April 25, 2006, we issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain CDC Models SR20 and SR22 airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on May 2, 2006 (71 FR 25785). The NPRM proposed to supersede AD 2005–17–19, Amendment 39–14240 (70 FR 51999, September 1, 2005), retain the action of replacing the crew seat recline locks on both seats, and add the action of replacing the crew seat break-over bolts with the new crew seat break-over pins on both seats.

Comments

We provided the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal and FAA's response to each comment:

Comment Issue

We received one comment from Jenna Deutschmann. The commenter supports the AD but believes the manufacturer should be liable to correct and pay for the problem since it involves a malfunction on their part.

The FAA issues ADs to correct unsafe conditions. We do not identify who will pay for the parts or labor. In this case, CDC will provide warranty credit to the extent noted in Service Bulletins SB 2X–25–17 R1, Issued: December 15, 2005, Revised: January 20, 2006; and SB 2X–25–06 R4, Issued: August 13, 2004, Revised: May 5, 2005.

We are not changing the AD as a result of this comment.

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial corrections. We have determined that these minor corrections:

• Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and

• Do not add any additional burden upon the public than was already proposed in the NPRM.

Costs of Compliance

We estimate that this AD affects 2,230 airplanes in the U.S. registry.

We estimate the following costs to do the required replacements:

Labor cost	Model number and serial number	Parts cost	Total cost per airplane	Total cost on U.S. operators
Replacement of the recline locks: 1 work-hour × $80 per hour = $80.	Model SR20, serial numbers (S/N) 1148 through 1152 and 1206 through 1455.	$83	$163	$41,565
Replacement of the recline locks: 1 work-hour × $80 per hour = $80.	Model SR20, S/N 1005 through 1147 and 1153 through 1205.	165	245	48,020
Replacement of the recline locks: 1 work-hour × $80 per hour = $80.	Model SR22, S/N 0002 through 1044	89	169	176,267
Replacement of the crew seat break-over pins: 1 work-hour × $80 per hour = $80.	Model SR20, S/N 1005 through 1600 and Model SR22, S/N 0002 through 1727.	33	113	262,273

Note: CDC will provide warranty credit to the extent noted in Service Bulletins SB 2X–25–17 R1, Issued: December 15, 2005, Revised: January 20, 2006; and SB 2X–25–06 R4, Issued: August 13, 2004, Revised: May 5, 2005.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include "Docket No. FAA–2006–24254; Directorate Identifier 2006–CE–24–AD" in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. FAA amends § 39.13 by removing Airworthiness Directive (AD) 2005–17–19, Amendment 39–14240 (70 FR 51999, September 1, 2005), and by adding the following new AD:

2006–19–10 Cirrus Design Corporation: Amendment 39–14767; Docket No. FAA–2006–24254; Directorate Identifier 2006–CE–24–AD.

Effective Date

(a) This AD becomes effective on October 24, 2006.

Affected ADs

(b) This AD supersedes AD 2005–17–19, Amendment 39–14240.

Applicability

(c) This AD affects the following airplane models and serial numbers that are certificated in any category:

Model	Serial Nos.
(1) SR20	1005 through 1600.
(2) SR22	0002 through 1727.

Unsafe Condition

(d) This AD results from discovering that the crew seats, under emergency landing dynamic loads, may fold forward at less than the 26 g required by the regulations, 14 Code of Federal Regulations (CFR) Section 23.562 (b)(2). We are issuing this AD to prevent the crew seats from folding forward during emergency landing with dynamic loads with consequent occupant injury.

Compliance

(e) To address this problem, you must do the following:

Actions	Compliance	Procedures
(1) For Model SR20, serial numbers (S/Ns) 1005 through 1600, and Model SR22, S/Ns 0002 through 1727, do the following actions: (i) At the lower back of the crew seat, release the reclosable fasteners to expose the lower seat frame. (ii) Replace the crew seat break-over bolt with the new crew seat break-over pin, part number 17063–002. (iii) Recover the seat frame, refastening the reclosable fasteners. (iv) Inspect the crew seat. (v) Repeat the above actions for the opposite crew seat.	Within 50 hours time-in-service (TIS) or within 180 days, whichever occurs first, after October 24, 2006 (the effective date of this AD), unless already done.	Follow Cirrus Design Corporation Service Bulletin SB 2X–25–17 R1, Issued: December 15, 2005, Revised: January 20, 2006.

Actions	Compliance	Procedures
(2) For Models SR20, S/Ns 1005 through 1455, and SR22, S/Ns 0002 through 1044, do the following actions: (i) Identify whether the recline lock is secured with two bolts or three bolts. (ii) If the recline locks are secured with two bolts, remove the existing recline locks and replace with the new recline locks kit, Kit Number 70084–001. (iii) If the recline locks are secured with three bolts, remove existing recline locks and replace with the new recline locks kit, Kit Number 70084–002. (iv) Check break-over pin alignment and adjust as necessary. (v) Check that the locks engage with the break-over bolts with the seat in the full recline position. If full seat recline is not possible or difficult to engage, grinding of the lower aft seat frame is necessary. (vi) Repeat the above actions for the opposite crew seat.	Within 50 hours TIS or within 180 days, whichever occurs first after October 13, 2005 (the effective date of AD 2005–17–19), unless already done.	Follow Cirrus Design Corporation Service Bulletin SB 2X–25–06 R4, Issued: August 13, 2004, Revised: May 5, 2005.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Chicago Aircraft Certification Office, FAA, ATTN: Wess Rouse, Small Airplane Project Manager, ACE–117C, Chicago Aircraft Certification Office, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; telephone: (847) 294–8113; facsimile: (847) 294–7834; e-mail: *wess.rouse@faa.gov;* or Angie Kostopoulos, Composite Technical Specialist, ACE–116C, Chicago Aircraft Certification Office, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; telephone: (847) 294–7426; facsimile: (847) 294–7834; e-mail: *evangelia.kostopoulos@faa.gov*, have the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Related Information

(g) None.

Material Incorporated by Reference

(h) You must do the actions required by this AD following the instructions in Cirrus Design Corporation Service Bulletins SB 2X–25–17 R1, Issued: December 15, 2005, Revised: January 20, 2006; and SB 2X–25–06 R4, Issued: August 13, 2004; Revised: May 5, 2005.

(1) As of October 24, 2006, the Director of the Federal Register approved the incorporation by reference of Cirrus Design Corporation Service Bulletin SB 2X–25–17 R1, Issued: December 15, 2005, Revised: January 20, 2006 under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On October 13, 2005 (70 FR 51999, September 1, 2005), the Director of the Federal Register previously approved the incorporation by reference of Cirrus Design Corporation Service Bulletin SB 2X–25–06 R4, Issued: August 13, 2004, Revised: May 5, 2005.

(3) To get a copy of this service information, contact Cirrus Design Corporation, 4515 Taylor Circle, Duluth, Minnesota 55811; telephone: (218) 727–2737; Internet address: *http://www.cirrusdesign.com.* To review copies of this service information, go to the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html* or call (202) 741–6030. To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001 or on the Internet at *http://dms.dot.gov.* The docket number is FAA–2006–24254; Directorate Identifier 2006–CE–24–AD.

Issued in Kansas City, Missouri, on September 8, 2006.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–15432 Filed 9–18–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25689; Directorate Identifier 2006–CE–45–AD; Amendment 39–14765; AD 2006–19–08]

RIN 2120–AA64

Airworthiness Directives; Stemme GmbH & Co. KG Model STEMME S10–VT Sailplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Stemme GmbH & Co. KG Model STEMME S10–VT sailplanes. This AD requires you to do a one-time inspection of all exhaust bends (each cylinder 1 to 4) in the area of the curvature bend near the cylinder flange, replace any damaged exhaust pipes found, and recondition the heat protection wrapping. This AD results from deformations and cracks found at an exhaust bend during maintenance work. We are issuing this AD to detect and correct cracks in the exhaust pipes. Damaged exhaust pipes could cause exhaust gases to expand into the engine compartment and/or carbon monoxide (CO) to leak into the cockpit section.

DATES: This AD becomes effective on October 10, 2006.

As of October 10, 2006, the Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation.

We must receive any comments on this AD by October 19, 2006.

ADDRESSES: Use one of the following addresses to comment on this AD.

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *Fax:* (202) 493–2251.

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

To get the service information identified in this AD, contact STEMME AG–Flugplatzstraβe F2, Nr. 7, D–15344 Strausberg, Germany; telephone: +49.33.41/36 12–0; fax: +49.33 41/36 12–30.

To view the comments to this AD, go to *http://dms.dot.gov.* The docket number is FAA–2006–25689; Directorate Identifier 2006–CE–45–AD.

FOR FURTHER INFORMATION CONTACT: Gregory Davison, Glider Program Manager, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the airworthiness authority for the European Union (EU), recently notified the FAA that an unsafe condition may exist on certain Stemme GmbH & Co. KG Model STEMME S10–VT sailplanes. The EASA reports that deformations and cracks at an exhaust bend were found during maintenance work. The defective exhaust bend was found on the thermally topmost loaded front-left cylinder. The damaged area is located in the curvature bend near the cylinder flange. If not corrected, exhaust gases may expand into the engine compartment and/or CO may leak into the cockpit section.

Relevant Service Information

We reviewed Stemme GmbH & Co. KG Service Bulletin A31–10–075 Am.-Index: 01.a, dated July 06, 2006. The service information describes procedures for inspecting the exhaust pipes in the curvature bend near the exhaust flange, replacing any damaged pipes found, and reconditioning the heat protection wrapping.

The EASA classified this service bulletin as mandatory and issued EU AD No.: 2006–0217–E, dated July 17, 2006, to ensure the continued airworthiness of these sailplanes in the EU.

FAA's Determination and Requirements of This AD

These Stemme GmbH & Co. KG Model STEMME V10–VT sailplanes are manufactured in Germany and are type-certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Under this bilateral airworthiness agreement, the EASA has kept us informed of the situation described above. We are issuing this AD because we evaluated all the information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design. This AD requires you to do a one-time inspection of all exhaust bends (each cylinder 1 to 4) in the area of the curvature bend near the cylinder flange, replace any damaged exhaust pipes found, and recondition the heat protection wrapping.

In preparing this rule, we contacted type clubs and aircraft operators to get technical information and information on operational and economic impacts. We did not receive any information through these contacts. If received, we would have included a discussion of any information that may have influenced this action in the rulemaking docket.

FAA's Determination of the Effective Date

Since an unsafe condition exists that requires the immediate adoption of this AD, we determined that notice and opportunity for public comment before issuing this AD are impracticable, and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and an opportunity for public comment. We invite you to send any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number "FAA–2006–25689; Directorate Identifier 2006–CE–45–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the AD in light of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator,

the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2006–19–08 Stemme GmbH & Co. KG: Amendment 39–14765; Docket No. FAA–2006–25689; Directorate Identifier 2006–CE–45–AD.

Effective Date

(a) This AD becomes effective on October 10, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model STEMME S10–VT sailplanes, serial numbers 11–001 through 11–103, that are certificated in any category.

Unsafe Condition

(d) This AD results from deformations and cracks found at an exhaust bend during maintenance work. We are issuing this AD to detect and correct cracks in the exhaust pipes. Damaged exhaust pipes could cause exhaust gases to expand into the engine compartment and/or carbon monoxide to leak into the cockpit section.

Compliance

(e) To address this problem, you must do the following, unless done previously:

Actions	Compliance	Procedures
(1) Inspect all exhaust bends (each cylinder 1 to 4) in the area of the curvature bend near the cylinder flange for deformations, cracks, and/or flattening. Use a minimum 10X magnifier to aid the inspection.	Within the next 10 hours time-in-service after Octoober 10, 2006.	Follow Stemme GmbH & Co. KG Service Bulletin A31–10–075 Am.-Index: 01.a, dated July 06, 2006, except use a minimum 10X magnifier to aid the inspection.
(2) If any damage (deformation, cracks, and/or flattening) is found in the inspection required in paragraph (e)(1) of this AD, replace the damaged exhaust pipe.	Before further flight after the inspection required by paragraph (e)(1) of this AD.	Follow Stemme GmbH & Co. KG Service Bulletin A31–10–075 Am.-Index: 01.a, dated July 06, 2006.
(3) Recondition the heat protection wrapping	Before further flight after the inspection done in paragraph (e)(1) or the replacement done in paragraph (e)(2) of this AD.	Follow Stemme GmbH & Co. KG Service Bulletin A31–10–075 Am.-Index: 01.a, dated July 06, 2006.

Note: According to the Maintenance Manual an inspection of the condition of the exhaust pipes is scheduled for every 100 flight hours. It is recommended to pay special attention to this item.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Standards Staff, FAA, ATTN: Gregory Davison, Glider Project Manager, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; fax: (816) 329–4090, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Related Information

(g) This AD is related to European Aviation Safety Agency (EASA) AD No.: 2006–0217–E, Issue date: July 17, 2006, which references Stemme GmbH & Co. KG Service Bulletin A31–10–075 Am.-Index: 01.a, dated July 06, 2006.

Material Incorporated by Reference

(h) You must do the actions required by this AD following the instructions in Stemme GmbH & Co. KG Service Bulletin A31–10–075 Am.-Index: 01.a, dated July 06, 2006. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get a copy of this service information, contact STEMME AG–Flugplatzstraβe F2, Nr. 7, D–15344 Strausberg, Germany; telephone: +49.33.41/36 12–0; fax: +49.33 41/36 12–30. To review copies of this service information, go to the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html* or call (202) 741–6030. To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001 or on the Internet at *http://dms.dot.gov*. The docket number is FAA–2006–25689; Directorate Identifier 2006–CE–45–AD.

Issued in Kansas City, Missouri, on September 11, 2006.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–15329 Filed 9–18–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24793; Directorate Identifier 2006–NM–056–AD; Amendment 39–14764; AD 2006–19–07]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330, A340–200, and A340–300 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Model A330, A340–200, and A340–300 airplanes. This AD requires replacing the attachment landing assemblies of certain blow-down panels of the wing leading edges with new, improved landing assemblies. This AD results from several reports of full or partial loss of certain blow-down panels of the wing leading edges during flight. We are issuing this AD to prevent damage to the airplane and hazards to persons or property on the ground.

DATES: This AD becomes effective October 24, 2006.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of October 24, 2006.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC.

Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2797; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Examining the Docket

You may examine the airworthiness directive (AD) docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the street address stated in the **ADDRESSES** section.

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Airbus Model A330, A340–200, and A340–300 airplanes. That NPRM was published in the **Federal Register** on May 18, 2006 (71 FR 28819). That NPRM proposed to require replacing the attachment landing assemblies of certain blow-down panels of the wing leading edges with new, improved landing assemblies.

Comments

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

Request To Revise Applicability To Reflect Secondary Service Bulletins

Airbus states that the European Aviation Safety Agency (EASA) airworthiness directive 2006–0048, dated February 16, 2006, is written to exclude airplanes modified in service in accordance with Airbus Service Bulletins A330–57–3084 and A330–57–3063, or A340–57–4092 and A340–57–4071 (these service bulletins introduced the replacements that were subsequently cited in the primary service bulletins—Airbus Service Bulletins A330–57–3091 and A340–57–4100, both dated October 25, 2005—and mandated by EASA airworthiness directive 2006–0048). Airbus therefore requests that we revise the NPRM to agree with the EASA airworthiness directive and exclude airplanes modified in service as described in the secondary service bulletins.

We partially agree. We acknowledge that airplanes which have been modified as described in the secondary service bulletins require no further work in accordance with this AD. However, we have not revised the applicability of the AD; rather, we have included a new paragraph (g) in the AD to state that replacements done in accordance with the secondary service bulletins are considered to be acceptable for compliance with the requirements of paragraph (f) of this AD. We have re-identified subsequent paragraphs of the AD accordingly.

Request To Revise Applicability To Reflect Primary Service Bulletins

Airbus further requests that we revise the applicability of the NPRM to exclude certain other airplanes. Airbus states that EASA airworthiness directive 2006–0048 excludes airplanes modified in service as described in Airbus Service Bulletin A330–57–3091 or A340–57–4100, both dated October 25, 2005, which are cited as the primary sources of service information for accomplishing the requirements of this AD. Airbus asserts that the AD should agree with the EASA airworthiness directive and exclude airplanes which have been modified in service as described in Airbus Service Bulletin A330–57–3091 or A340–57–4100.

We disagree. We have not excluded those airplanes in the applicability of this AD; rather, this AD includes a requirement to accomplish the actions specified in the primary service bulletins. This requirement will ensure that the actions described in the service bulletins and required by this AD are accomplished on all affected airplanes. Operators must continue to operate the airplanes in the configuration required by this AD unless an alternative method of compliance is approved in accordance with the procedures specified in paragraph (h) of this AD. We have not revised the AD in this regard.

Conclusion

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

Costs of Compliance

The following table provides the estimated costs for U.S. operators of Model A330 airplanes to comply with the modifications required by this AD. The estimated labor rate is $80 per work hour.

ESTIMATED COSTS

Airplane group	Work hours	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
1, 2, 3, 4, 5	68	$25,120	$30,560	5 (group 2 only)	$152,800
6	11	2,480	3,360	22	73,920

Currently, there are no Model A340–200 or A340–300 airplanes on the U.S. Register. However, if an affected Model A340–200 or A340–300 airplane is imported and placed on the U.S. Register in the future, the estimated costs shown in the table above will apply to accomplish the required actions of this AD for that airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

2006–19–07 Airbus: Amendment 39–14764. Docket No. FAA–2006–24793; Directorate Identifier 2006–NM–056–AD.

Effective Date

(a) This AD becomes effective October 24, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A330, A340–200, and A340–300 airplanes, certificated in any category; all serial numbers; except for airplanes which have received both Airbus Modification 47249 and Airbus Modification 53383 in production.

Unsafe Condition

(d) This AD results from several reports of full or partial loss of certain blow-down panels of the wing leading edges during flight. We are issuing this AD to prevent damage to the airplane and hazards to persons or property on the ground.

Compliance

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

Replacement

(f) Within 56 months after the effective date of this AD, replace the landing assemblies of certain blow-down panels of the wing leading edges with new, improved landing assemblies; in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–57–3091 (for Model A330 airplanes) or Airbus Service Bulletin A340–57–4100 (for Model A340–200 and A340–300 airplanes), both dated October 25, 2005, as applicable.

Actions Previously Accomplished in Accordance With Alternative Service Information

(g) Actions done in accordance with Airbus Service Bulletins A330–57–3084 and A330–57–3063, or A340–57–4092 and A340–57–4071, at the revision levels specified in Table 1 of this AD, as applicable, are considered to be acceptable for compliance with the requirements of paragraph (f) of this AD. After the effective date of this AD, only Airbus Service Bulletin A330–57–3091 or A340–57–4100; both dated October 25, 2005; as applicable, may be used.

TABLE 1.—ALTERNATIVE SERVICE INFORMATION

Airbus Service Bulletin	Revision	Effective date
A330–57–3063	01	July 23, 2004.
A330–57–3063	Original	July 12, 2001.
A330–57–3084	01	February 17, 2006.
A330–57–3084	Original	December 14, 2004.
A340–57–4071	02	September 10, 2004.
A340–57–4071	01	July 23, 2004.
A340–57–4071	Original	July 12, 2001.
A340–57–4092	01	February 17, 2006.
A340–57–4092	Original	December 14, 2004.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(i) The European Aviation Safety Agency airworthiness directive 2006–0048, dated February 16, 2006, also addresses the subject of this AD.

Material Incorporated by Reference

(j) You must use Airbus Service Bulletin A330–57–3091, dated October 25, 2005; or Airbus Service Bulletin A340–57–4100, dated October 25, 2005; as applicable, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov*; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on September 7, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–15330 Filed 9–18–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22103; Directorate Identifier 2005–CE–42–AD; Amendment 39–14766; AD 2006–19–09]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Model B300 Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Raytheon Aircraft Company (RAC) Model B300 airplanes. This AD requires you to modify the cabin passenger seats by installing a modification kit on each passenger seat, removing the existing technical standard order (TSO) label, and re-identifying each modified passenger seat assembly with a new part number. This AD results from the seats not meeting the ultimate load requirements of 14 CFR part 23 during structural testing of the seat with design changes. We are issuing this AD to prevent the passenger seats from failing during emergency landing conditions when high inertial loadings occur. Passenger seat failure may result in occupant injury.

DATES: This AD becomes effective on October 24, 2006.

As of October 24, 2006, the Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation.

ADDRESSES: For service information identified in this AD, contact Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201; telephone: (800) 625–7043.

To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001 or on the Internet at *http://dms.dot.gov*. The docket number is FAA–2005–22103; Directorate Identifier 2005–CE–42–AD.

FOR FURTHER INFORMATION CONTACT: Steven E. Potter, Aerospace Engineer, Wichita Aircraft Certification Office, Airframe and Services Branch, ACE–118W, 1801 Airport Road, Wichita, Kansas 67209; telephone: (316) 946–4124; facsimile: (316) 946–4107.

SUPPLEMENTARY INFORMATION:

Discussion

On May 15, 2006, we issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain RAC Model B300 airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on May 19, 2006 (71 FR 29090). The NPRM proposed to require you to modify the cabin passenger seats by installing a modification kit on each passenger seat, removing the existing TSO label, and re-identifying each modified passenger seat assembly with a new part number.

Comments

We provided the public the opportunity to participate in developing this AD. We received no comments on the proposal or on the determination of the cost to the public.

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial corrections. We have determined that these minor corrections:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Costs of Compliance

We estimate that this AD affects 292 airplanes in the U.S. registry.

We estimate the following costs to do the modification:

Labor cost	Parts cost (per seat)	Total cost per airplane (per seat)	Total cost on U.S. operators
3 work-hours (per seat) × $80 per hour = $240	$1,500	$1,740	$2,387,280. The number of passenger seats per airplane may vary. We estimate a total of 1,372 seats in the entire fleet.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include "Docket No. FAA–2005–22103; Directorate Identifier 2005–CE–42–AD" in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2006–19–09 Raytheon Aircraft Company: Amendment 39–14766; Docket No. FAA–2005–22103; Directorate Identifier 2005–CE–42–AD.

Effective Date

(a) This AD becomes effective on October 24, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD affects Model B300 airplanes, serial numbers FL–1 through FL–289, that are certificated in any category.

Unsafe Condition

(d) This AD is the result of the cabin passenger seats not meeting the design load requirements of 14 CFR part 23 during structural load testing for design changes. The actions specified in this AD are intended to prevent the passenger seats from failing during emergency landing conditions when high inertial loadings occur. Passenger seat failure could result in occupant injury.

Compliance

(e) To address this problem, you must do the following, unless already done:

Actions	Compliance	Procedures
(1) Install a modification kit for each cabin passenger seat as follows: (i) Install part number (P/N) 130–5108–0001 for left forward facing seats or right aft facing seats; and (ii) Install P/N 130–5108–0002 for right forward facing seats or left aft facing seats.	Within 24 calendar months or 600 hours time-in-service, whichever occurs first after October 24, 2006 (the effective date of this AD).	Follow Raytheon Aircraft Company Service Bulletin SB 25–3640, Rev. 1; Issued: May 2005, Revised: January 2006.
(2) Remove the TSO label on each cabin seat and re-identify each modified cabin seat assembly with the new P/N.	Before further flight after doing the modification required in paragraph (e)(1) of this AD.	Follow Raytheon Aircraft Company Service Bulletin SB 25–3640, Rev. 1; Issued: May 2005, Revised: January 2006.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Wichita Aircraft Certification Office (ACO), FAA, ATTN: Steven E. Potter, Aerospace Engineer, Wichita ACO, Airframe and Services Branch, ACE–118W, 1801 Airport Road, Wichita, Kansas 67209; telephone: (316) 946–4124; facsimile: (316) 946–4107, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Related Information

(g) None.

Material Incorporated by Reference

(h) You must do the actions required by this AD following the instructions in Raytheon Aircraft Company Service Bulletin SB 25–3640, Rev. 1; Issued: May 2005, Revised: January 2006. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get a copy of this service information, contact Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201; telephone: (800) 625–7043. To review copies of this service information, go to the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html* or call (202) 741–6030. To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001 or on the Internet at *http://dms.dot.gov*. The docket number is FAA–2005–22103; Directorate Identifier 2005–CE–42–AD.

Issued in Kansas City, Missouri, on September 11, 2006.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–15422 Filed 9–18–06; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–8220–4]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final notice of deletion of the Waverly Groundwater Contamination Superfund Site (Site) from the National Priorities List (NPL).

SUMMARY: The EPA, Region 7, is publishing a direct final notice of deletion of the Site, located near Waverly, Nebraska, from the NPL. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is Appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by the EPA with the concurrence of the state of Nebraska through the Nebraska Department of Environmental Quality because the EPA has determined that responsible parties or other persons have implemented all appropriate response actions required and, therefore, no further remedial action pursuant to CERCLA are appropriate.

DATES: This direct final deletion will be effective November 20, 2006 unless EPA receives adverse comments by October 19, 2006. If adverse comments are received, the EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–1986–0005, by one of the following methods:

- *http://www.regulations.gov*—Follow the online instruction for submitting comments.
- *E-mail: hirter.fritz@epa.gov.*
- *Fax:* 913–551–9130.
- *Mail:* Mr. Fritz Hirter, Community Involvement Coordinator, U.S. EPA, Region 7, 901 N 5th Street, Kansas City, Kansas 66101.

• *Hand Delivery:* 901 N 5th Street, Kansas City, Kansas.

Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–SFUND–1986–0005. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means the 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 the EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the 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 the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the EPA's Region 7 Superfund Records Center, 901 N 5th Street, Kansas City, Kansas 66101 and the Waverly City Hall, Lancashire Street, Waverly, Nebraska 68462–1131. Region 7's Docket Facility is open from 8 a.m. to 4 p.m. by appointment, Monday through Friday, excluding legal holidays. The EPA Docket telephone number is 913–551–7166. The Waverly City Hall is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays, or by appointment. The Waverly City Hall telephone number is 402–786–2312.

Information Repositories: Comprehensive information on the Site is available for viewing in the Deletion Docket at the information repositories located at: U.S. EPA, Region 7, Superfund Division Records Center, 901 North 5th Street, Kansas City, Kansas 66101; and the Waverly City Hall, Lancashire Street, Waverly, Nebraska 68462–1131.

FOR FURTHER INFORMATION CONTACT: Mr. Fritz Hirter, Community Involvement Coordinator (PLMG/OEP) U.S. Environmental Protection Agency, Region 7, 901 N 5th Street, Kansas City, Kansas 66101, telephone number: 1–800–223–0425 or (913) 551–7130; fax number: 913–551–9130; e-mail address: *hirter.fritz@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The EPA, Region 7, is publishing this direct final notice of deletion of the Waverly Groundwater Contamination Superfund Site (Site) from the National Priorities List (NPL).

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted Site warrant such action.

Because the EPA considers this action to be noncontroversial and routine, the EPA is taking it without prior publication of a notice of intent to delete. This action will be effective November 20, 2006 unless the EPA receives adverse comments by October 19, 2006 on this document. If adverse comments are received within the 30-day public comment period on this document, the EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take effect. The EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment. Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Site and demonstrates how it meets the deletion criteria. Section V states the EPA's action to delete the Site from the NPL unless adverse comments are received during the comment period.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a Site from the NPL, the EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

a. Responsible parties or other persons have implemented all appropriate response actions required.

b. All appropriate responses under CERCLA have been implemented, and no further response action by responsible parties is appropriate.

c. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures are not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA Section 121(c), 42 U.S.C. 9621(c) requires a subsequent review of the site to ensure that the remedy remains protective of public health and the environment. If new information becomes available which indicates a need for further action, the EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the site may be restored to the NPL without the application of the Hazard Ranking System.

III. Deletion Procedures

The following procedures apply to deletion of the Site.

a. The EPA, Region 7, issued a Record of Decision (ROD) which documented the required remedial action.

b. All appropriate responses by responsible parties have been implemented as documented in the Final Close-Out Report dated August 2, 2006.

c. The state of Nebraska concurred with deletion of the Site from the NPL. The EPA consulted with the state of Nebraska on the deletion of the Site

from the NPL prior to developing this direct final notice of deletion. Concurrently with the publication of this direct final notice of deletion, a notice of the availability of the parallel notice of intent to delete published today in the "Proposed Rules" section of the **Federal Register** is being published in a major local newspaper of general circulation at or near the Site and is being distributed to appropriate Federal, State, and local government officials and other interested parties; the newspaper notice announces the 30-day public comment period concerning the notice of intent to delete the Site from the NPL.

d. The EPA placed copies of documents supporting the deletion in the Deletion Docket at the Site information repositories identified above.

e. If adverse comments are received within the 30-day public comment period on this document, the EPA will publish a timely notice of withdrawal of this direct final notice of deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of the site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions should future conditions warrant such actions.

IV. Basis for Intended Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

Site Location

The Site is located in Lancaster County in southeastern Nebraska, in and near the city of Waverly. Waverly is located along State Highway 6, approximately 10 miles north of Lincoln, Nebraska. The population of the city of Waverly is approximately 2637.

Site History

The Commodity Credit Corporation/U.S. Department of Agriculture (CCC/USDA) operated a grain storage facility in Waverly between 1952 and 1974. The facility consisted of grain storage structures (approximately 100 bins and 13 Quonset® huts) on concrete foundations. The fumigant "80/20" was used at the facility between approximately 1955 and 1965. The fumigant is reported to have been composed of 80% carbon tetrachloride and 20% carbon disulfide.

The EPA sampled the Waverly municipal water system in July 1982 as part of a nationwide survey. The analytical results indicated contamination of the public water supply (PWS) wells 1 and 3 with carbon tetrachloride and chloroform at concentrations of up to 200 micrograms per liter (µg/L) and 7.5 µg/L, respectively. Subsequent sampling of PWS 3 in 1983, 1984, 1985, and 1986 showed high levels of carbon tetrachloride and chloroform. In October 1984, the Site was placed on the NPL of sites requiring long-term remedial action.

The Site was proposed to the NPL in October 1984 and became final in June 1986. The Site contaminants posed a threat to the public health through direct contact, potential leaching from soil and the migration of contaminants in groundwater.

Immediate Actions

In May 1986, the EPA developed an Engineering Evaluation/Cost Analysis (EE/CA) Report outlining an Expedited Response Action (ERA). The ERA included pumping and treating groundwater with air stripping technology and soil gas extraction to prevent contamination of drinking water wells, prevent further plume migration, and to address soil contamination. Design of the systems was completed in May 1987.

The EPA began operation of the ERA system at the Site in February 1988. A compliance agreement between the CCC/USDA and the EPA went into effect in May 1988. In June 1988, the CCC/USDA took over the operation and maintenance of the ERA. In September 1990, the ROD was issued for the Site. The CCC/USDA is responsible for implementing the actions described in the ROD for the Site.

Record of Decision Findings

A final ROD was issued by EPA in September 1990. The remedy described in the ROD included:

- Extraction of the contaminated groundwater using the existing groundwater extraction well (GWEX),
- Onsite treatment of the extracted groundwater using existing air strippers,
- Active soil extraction using existing system of soil vapor extraction wells, and
- Continued investigation of the contaminant plume and monitoring of the system to determine the effectiveness of the remedy.

The remedial action objectives described in the ROD included:

- The prevention of potential exposure to contaminated groundwater,
- The protection of uncontaminated groundwater for future use by preventing further migration of the contaminated groundwater plume; and
- The restoration of contaminated groundwater for future use as drinking water by reducing the carbon tetrachloride and chloroform concentrations below health-based criteria.

The final remedy outlined in the ROD required the following additional steps:

- The installation of monitoring well clusters (nested wells) to the north and northwest to delineate the magnitude and extent of contamination along this potential migration route;
- A survey of existing down-gradient wells north, northeast, and northwest of the Site;
- Retrieval of data from the identified wells for use in citing the new monitoring well clusters;
- A pumping and recovery aquifer test using the existing (GWEX) and monitoring wells to evaluate the hydraulic properties of the aquifer;
- Determine the suitability of existing wells for use as extraction wells;
- Continue sampling of the existing and new monitoring wells, water supply wells, domestic wells, vapor extraction wells, soil gas monitoring wells, air compliance points, and GWEX as specified in the performance criteria;
- Develop a groundwater flow and transport model of sufficient detail to determine the correct pumping rate for the GWEX to enable it to capture the entire area of the plume that is above the contamination action level; and
- Investigate potential uses for the treated water discharged from the GWEX and the air stripping system.

In 1991–1992, the CCC/USDA conducted additional site investigations at the Site to satisfy the requirements of the ROD. The principal conclusion of these site investigations were as follows:

- Groundwater beneath the Site flows in a north-northeast direction;
- Groundwater contamination was present only in the upper aquifer; and
- A plume of groundwater contaminated with carbon tetrachloride and chloroform was present to the northeast of the Site.

Maximum contaminant levels detected in this northeast plume were 400 µg/L (carbon tetrachloride) and 200 µg/L (chloroform).

The contaminant plume to the northeast of the Site identified during CCC/USDA's 1991–1992 investigations was beyond the capture zone of the existing GWEX and is believed to have migrated from the Site before the ERA remedial system began operation. This northeast plume also needed to be captured and treated to comply fully with the ROD. To meet this objective, modifications for the remedial system were proposed by CCC/USDA in 1993 and approved by the EPA and the state of Nebraska. The modification involved installing a supplementary groundwater extraction well (SGWEX) northeast of the Site and pumping the groundwater to the Site's process building for treatment in the existing air stripper system. Additional monitoring wells were also installed to monitor the progress of the aquifer cleanup. The SGWEX system began operation in 1994.

Remedial Actions

In May 1986, the EPA developed an EE/CA Report outlining an ERA. The ERA included pumping and treating the groundwater with air stripping technology and soil gas extraction. Design of the system was completed in May 1987 and a public meeting was held in Waverly to receive comments on the proposed ERA.

The EPA began operation of the ERA system in February 1988. A compliance agreement between CCC/USDA and EPA went into effect in May 1988. In June 1988, USDA took over operation and maintenance of the ERA.

Designed for a flow rate of 169 cubic feet per minute, the vapor extraction system (VES) consisted of 17 vapor extraction wells installed in the soil above the water table at depths of 27–39 feet, with the lower 15–20 feet screened. The VES removed volatile contaminants from solution to the vapor phase as the air was drawn through the soil. The CCC discontinued operation of the VES in 1993. This action was approved by the EPA in 1995.

The air stripping system was designed to accept water at a flow rate of up to 400 gallons per minute (gpm) from the GWEX, containing concentrations of carbon tetrachloride and chloroform of up to 4,000 parts per billion (ppb) and 360 ppb, respectively, and to remove 99.9% of the contaminant concentrations. Water was pumped to a flow distributor at the top of the stripper and cascaded down through a bed of inert packing material. Clean air entered the bottom of the column and was driven upward through the packing and exited at the top of the column. The transfer of the VOCs from the water to the air produced treated water with very low VOC concentrations and air with elevated VOC levels. The air and VOCs exit the system through a stack 41 feet above grade. The treated effluent water from the air stripper is discharged to a ditch north of the Site. The effluent water flowed west via drainage ditches to Salt Creek. Effluent was monitored under a permit issued under the National Pollutant Discharge Elimination System program.

The EPA conducted a pre-final construction completion inspection at the Site in March 1994 as part of the Site close-out process. The report for the Preliminary Close-Out inspection stated that modification of the existing GWEX system to add an additional groundwater extraction well had been completed in March 1994. The Preliminary Close-Out report documented the completion of construction at the Waverly Site and provided a schedule for verification of Site cleanup and final inspection/close-out of the Site. It was completed and signed on March 29, 1994.

The GWEX was installed on the north edge of the Site in the area of greater groundwater contamination. The well was screened at 19–34 feet and 39–49 feet below the ground surface. The well was designed to have a zone of influence of 1,000 to 1,400 feet while pumping at 150 gpm. Based on sampling and monitoring results, the GWEX was shut down with EPA approval in 1995.

As part of the ROD, the EPA required the CCC/USDA to conduct an additional Site investigation program. The purpose of this investigation was to verify the downgradient performance of the ERA system and to further characterize the hydrogeologic setting. A main objective of the investigation was the installation of a nest of down-gradient monitoring wells to the northwest of the Site. These monitoring wells (6A, 6B, and 6C) were positioned on Lancaster County property. This work was completed in February 1992.

The additional Site investigations revealed a groundwater contaminant plume northeast of the Site. This plume had not been captured by the existing GWEX system since the system was only affecting the upper aquifer, and the actual radius of influence of the GWEX was approximately 800 feet. A portion of the original contaminant plume outside the influence of the GWEX was located to the northeast of the Site along 141st Street. Consequently, the remedial systems required modifications, including the installation of a SWGEX that was completed in early 1994. The Site attained the EPA status of "Construction Complete" in April 1994.

Cleanup Standards

The remedial action cleanup activities are consistent with the objectives of the NCP and will provide protection to human health and the environment. The cleanup standards for specific media are:

- Groundwater—for carbon tetrachloride and chloroform is 5.0 µg/L and 3.8 µg/L respectively,
- Surface water (Air Stripper Discharge)—for carbon tetrachloride and chloroform is 6.8 µg/L and 5.0 µg/L respectively,
- Air (Combined VOC emissions from VES air stripper system)—is 0.147 g/s,
- Soil—for carbon tetrachloride and chloroform are 1.1 milligrams per kilograms (mg/kg) and 1.7 mg/kg respectively,
- Soil Gas—(Combined for carbon tetrachloride and chloroform) is 6.5 µg/m^3.

An Explanation of Significant Differences was issued in March 2005, deleting soil gas as a cleanup standard.

Soil and groundwater contamination—major source of contamination identified in the ROD—has been addressed. The exposure pathways considered in the risk assessment were: worker and resident exposure to soil through ingestion and direct contact, exposure to contaminated groundwater through ingestion, and exposure to air emissions generated by the air stripping and VES through inhalation. Since the likelihood of human exposure to significant levels of carbon tetrachloride and chloroform contained within soil gas at the Site was remote, this route was not considered.

The following milestones were achieved since the EPA began operation of the remedial system at the Waverly Site in February 1988:

- Quarterly monitoring and air sampling data indicated compliance was achieved for air media and the CCC/USDA discontinued operation of the VES in 1993. This action was approved by EPA in 1995.
- Monthly monitoring and surface water sampling data, indicated compliance levels were achieved and the air stripper system was shut down with EPA approval in 1999.
- Quarterly monitoring and groundwater sampling results for the initial plume indicated compliance was achieved and the GWEX was shut down with EPA approval in 1995.
- Quarterly monitoring and groundwater sampling results for the offsite plume (being addressed with the

SGWEX) indicated compliance was achieved and in 2004 the EPA approved the shut down of the SGWEX.

Recent analytical results provided in the *Third Quarter FY2006 report for the Expedited Response Action, Reporting Period April 2006 through June 2006* indicated that contaminant levels in all sampled monitoring wells were below the action levels established in the ROD.

Operation and Maintenance

The ERA systems design specifications and operation and maintenance plans are described in the February 29, 1988, report, *Treatment Plant Facility Operations and Maintenance Manual for the Expedited Response Action, Waverly Groundwater Contamination Site, Waverly, Nebraska.*

In November 1988, Argonne National Laboratory was contracted by the CCC/USDA to manage the Site, continue sampling, and operate/maintain the ERA systems.

The basic operation of the systems has not changed since they were first installed. However, a number of modifications and additions were made by Argonne to improve the systems' effectiveness and to facilitate operation. These changes were described in Argonne's 1991 *Final Work Plan: Expedited Remedial Action, Waverly Contaminated Groundwater Site, Waverly, Nebraska.*

The sampling and analysis program required monthly and quarterly sampling and analysis of groundwater for carbon tetrachloride (CCL^4) and chloroform ($CHCL^3$). Data were used to track the overall progress toward Site cleanup and to monitor potential offsite migration of contaminated groundwater. Cleanup progress was determined by comparing the measured contaminant concentrations of the environmental samples to specific target concentrations or action levels for CCL^4 and $CHCL^3$ as described in the ROD.

Since the cleanup levels described in the ROD have been achieved, routine O&M is no longer required. However, groundwater sampling at compliance points described in the ROD will continue until the final Five-Year Review is conducted in 2009.

Five-Year Review

CERCLA requires a Five-Year Review of all Sites with hazardous substances remaining above health-base levels for unrestricted use of the Site. The third Five-Year Review report was completed on September 2, 2004, pursuant to CERCLA 121(c) and to § 300.430(f)(4)(ii) of the NCP. The conclusion of this Five-Year Review assessment was that the remedial action in operation at the Site at that time was protective of human health and the environment. However, hazardous substances and pollutants remained onsite at levels above the compliance levels outlined in the ROD.

Sampling activities completed soon after the 2004 Five-Year Review was released found contamination levels in all of the compliance points described in the ROD had been achieved.

Recent analytical results provided in the *Third Quarter FY2006 report for the Expedited Response Action, Reporting Period April 2006 through June 2006* indicated that contaminant levels in all sampled monitoring wells continue to be below the action levels established in the ROD. Another five-year review report is scheduled for 2009.

Community Involvement

The EPA published its Community Relations Plan in January 1986. An information repository was established at the Waverly City Hall and all of the documents used to make decisions related to the remedial action were placed there before the ROD was signed. All other reports and fact sheets were sent to the repository as they were completed. Documents in the Deletion Docket on which EPA relied for recommendation of the deletion from the NPL are available to the public in the information repositories. A public notice for this action will also be published in the local newspapers.

V. Applicable Deletion Criteria

One of the three 40 CFR 300.425(e)(1)(i) criteria for site deletion specifies that EPA may delete a Site from the NPL if, "Responsible parties or other persons have implemented all appropriate response actions required." The EPA, with the concurrence of the state of Nebraska, has determined that all appropriate responses by the Responsible Parties have been completed and that no further response actions are necessary.

State Concurrence

In a letter dated August 24, 2006, Nebraska Department of Environmental Quality concurred with the proposed deletion of the Site from the NPL.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: September 7, 2006.

William W. Rice,

Acting Regional Administrator, Region 7.

■ For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

Appendix B—[Amended]

■ 2. Table 1 of Appendix B to part 300 is amended under "Nebraska" ("NE") by removing the entry for "Waverly Groundwater Contamination."

[FR Doc. E6–15338 Filed 9–18–06; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–8220–7]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of deletion of the Cedartown Industries, Inc. Superfund site from the National Priorities List.

SUMMARY: The EPA announces the deletion of the Cedartown Industries, Inc. Site in Cedartown, Polk County, Georgia from the National Priorities List (NPL). The NPL constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300, which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the State of Georgia have determined that the Site poses no significant threat to public health or the environment and, therefore, no further remedial measures pursuant to CERCLA are appropriate.

DATES: *Effective Date:* This rule will be effective September 19, 2006.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–SFUND–2006–0385. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is

not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the site information repositories at two locations. Locations, contacts, phone numbers and viewing hours are:

U.S. EPA Records Center, attn: Debbie Jourdan, Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, Georgia 30303–8960, Phone: (404) 562–8862.

Hours: 8 a.m. to 4 p.m., Monday through Friday (by appointment only).

Cedartown Public Library, 245 East Avenue, Cedartown, Georgia 30125, Phone: (770) 748–5644.

Hours: 9 a.m. to 6 p.m., Monday through Thursday; 9 a.m. to 5 p.m., Friday; 9 a.m. to 4 p.m., Saturday.

FOR FURTHER INFORMATION CONTACT: Brian Farrier, (404) 562–8952, U.S. Environmental Protection Agency, Region 4, Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, Georgia 30303–8960, *e-mail at farrier.brian@epa.gov*.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Cedartown Industries, Inc., Cedartown, Polk County, Georgia. A Notice of Intent to Delete for this Site was published in the **Federal Register** on May 26, 2006. (Document ID EPA_FRDOC_0001–1161).

The closing date for comments on the Notice of Intent to Delete was June 25, 2006. No comments were received; therefore, EPA has not prepared a Responsiveness Summary. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: August 23, 2006.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

■ 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 42 U.S.C. 9601–9657; 33 U.S.C. 1321(c)(2); E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

Appendix B—[Amended]

■ 2. Table 1 of Appendix B to part 300 is amended by removing the entry for Cedartown Industries, Inc., Cedartown, Georgia.

[FR Doc. E6–15535 Filed 9–18–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 1, 5, 10, 12 and 13

[USCG–2006–25535]

RIN 1625–ZA09

Mariner Licensing and Documentation Program Restructuring and Centralization; Correction

AGENCY: Coast Guard, DHS.

ACTION: Technical amendment; correction.

SUMMARY: The Coast Guard is correcting a technical amendment that appeared in the **Federal Register** on August 21, 2006. That technical amendment authorizes the Commanding Officer, National Maritime Center to perform certain mariner credentialing functions in addition to Officers in Charge, Marine Inspection, who currently perform those functions. At the end of a transitional period, most credentialing functions will be consolidated at a centralized location. The amendment also makes technical changes to the mariner credentialing appellate process. The technical amendment is organizational in nature and will have no substantive effect on the regulated public.

DATES: Effective September 20, 2006.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Gerald Miante, Project Manager, Maritime Personnel Qualifications Division (G–PSO–1), U.S. Coast Guard, telephone 202–372–1407. If you have questions on viewing the docket, call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202–493–0402.

SUPPLEMENTARY INFORMATION:

Background and Purpose

The Coast Guard is correcting a technical amendment that appeared in the **Federal Register** on August 21, 2006 (71 FR 48480). That technical amendment authorizes the Commanding Officer, National Maritime Center to perform certain mariner credentialing functions in addition to Officers in Charge, Marine Inspection, who currently perform those functions. At the end of a transitional period, most credentialing functions will be consolidated at a centralized location. The amendment also makes technical changes to the mariner credentialing appellate process. The technical amendment is organizational in nature and will have no substantive effect on the regulated public.

This correction adds a word in the preamble, and adds two words and removes a word in three different places in the regulatory text.

In FR Doc. E6–13781 the **Federal Register** of Monday, August 21, 2006, the following corrections are made:

1. On page 48481, in the first column, the first full sentence is corrected to read "We expect the economic impact of this rule to be so minimal that a full Regulatory evaluation is not necessary."

§ 1.01–15 [Corrected]

■ 2. On page 48482, in the first column, the first sentence of § 1.01–15 paragraph (c) is corrected to read as follows: "The Commanding Officer of the National Maritime Center has been designated and delegated to give direction to Coast Guard activities relating to marine safety functions consisting of the licensing, credentialing, certificating, shipment and discharge of seamen; referring to the processing Regional Examination Center (REC) or cognizant OCMI violations of law, negligence, misconduct, unskillfulness, incompetence or misbehavior of persons applying for or holding merchant mariner's documents, licenses, certificates or credentials issued by the Coast Guard; suspension or withdrawal of course approvals; and recommending possible suspension or revocation under 46 U.S.C. Chapter 77 of licenses, credentials, certificates and merchant mariner's documents."

■ 3. On page 48482, in the first column, the last sentence of § 1.01–15 paragraph (c) is corrected to read as follows: "A list of Regional Examination Center

locations is available through the Coast Guard Web site at *http://www.uscg.mil.*"

§ 10.105 [Corrected]

■ 4. On page 48482, in the third column, the last sentence of § 10.105 paragraph (a) is corrected to read as follows: "A list of Regional Examination Center locations is available through the Coast Guard Web site at *http://www.uscg.mil.*"

Dated: September 12, 2006.

Stefan G. Venckus,

Chief, Office of Regulations and Administrative Law, United States Coast Guard.

[FR Doc. E6–15493 Filed 9–18–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 060317076–6076–01; I.D. 031606D]

RIN 0648–AU41

Fisheries in the Western Pacific; Hawaii-based Shallow-set Longline Fishery

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

ACTION: Temporary rule.

SUMMARY: This rule extends an emergency rule that removed the delay in effectiveness for closing the Hawaii-based shallow-set longline fishery as a result of interaction limits for sea turtles. The intended effect of the emergency action is to afford enhanced protection for sea turtles via timely closure of the fishery.

DATES: Effective September 19, 2006, through March 19, 2007.

ADDRESSES: In accordance with the Endangered Species Act, a Biological Opinion, dated February 23, 2004, was prepared for this fishery, which operates under the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (FMP). Also, in accordance with the National Environmental Policy Act, an Environmental Impact Statement (EIS) dated March 30, 2001, and a Supplemental Environmental Impact Statement (SEIS) dated March 5, 2004, were prepared for this fishery under the FMP. Copies of the Biological Opinion, EIS and SEIS are available from William L. Robinson, Administrator, Pacific Islands Region, NMFS, 1601 Kapiolani Blvd. 1110, Honolulu, HI 96814.

FOR FURTHER INFORMATION CONTACT: Robert Harman, Pacific Islands Region, NMFS, phone: 808–944–2271.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is accessible via the Internet at the Government Printing Office website at *www.gpoaccess.gov/fr/index.html.*

Background

NMFS manages the pelagic longline fishery for swordfish, tunas, and related species in the western Pacific, according to the FMP prepared by the Western Pacific Fishery Management Council (WPFMC) under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and at 50 CFR part 665.

The regulations at § 665.33(b)(1) governing western Pacific pelagic fisheries establish maximum annual limits on the numbers of physical interactions that occur between longline fishing gear and sea turtles. These limits apply to physical interactions experienced by vessels registered under Hawaii longline limited-access permits while engaged in shallow-set longline fishing. There are calendar-year annual limits on physical interactions for two different turtle species, one for leatherback sea turtles set at 16, and one for loggerhead sea turtles set at 17.

Interactions with turtles are monitored using data from scientific observers placed by NMFS aboard all vessels engaged in shallow-set longline fishing. NMFS is required to maintain 100 percent observer coverage in the Hawaii shallow-set longline fishery under the 2004 Biological Opinion.

The current regulations at § 665.33(b)(2) prescribe that, as soon as the physical interaction limit for either of the two turtle species has been determined to have been reached in a given year, the shallow-set component of the Hawaii-based longline fishery must be closed by NMFS for the remainder of the calendar year, after giving permit holders at least seven days advance notice. Once that component of the fishery is closed, no vessel registered under a Hawaii longline limited-access permit may engage in shallow-set longline fishing north of the Equator.

Based on the best information available on fishing activity levels and anticipated turtle interaction rates at the time when the regulations were first implemented, the seven-day delay in effectiveness offered by the advance notice provision was thought to be adequate to provide notice of the fishery closure to vessels at sea. The delay was intended to give NMFS adequate time to notify permit holders and vessel operators of the closure, and to give operators adequate time to cease fishing and begin to return to port, while still affording adequate protection to sea turtles. Fishing activity levels and rates of turtle interactions in early 2006 were, however, higher than expected, resulting in the fishery quickly reaching the limit on turtle interactions. To respond to the recent greater fishing activity and turtle interaction rates, and to prevent additional adverse impacts to turtles, immediate implementation of the fishery closure was facilitated by issuance of the emergency rule that removed the delay in effectiveness in closing the fishery.

Additionally, more effective means of providing notification to fishermen now exist. At the time when the current regulations were implemented, NMFS observers placed aboard longline vessels were not issued satellite telephones, and other communication methods were considered ineffective for notifying the fleet of a closure. Currently, however, NMFS observers carry satellite telephones and are placed on all vessels conducting shallow-set fishing trips. This makes immediate and effective communication possible between NMFS and each vessel at sea.

The emergency rule that removed the delay in effectiveness in closing the fishery was published on March 22, 2006 (71 FR 14416), and effective on March 20, 2006. When the 2006 fishery was closed, NMFS notified the operator of each Hawaii-based shallow-set longline vessel, directly via the communication devices available to the NMFS observer placed on the vessel. This allowed for immediate closure of the fishery, and the limit on turtle interactions was not exceeded. The shallow-set fishery was closed on March 20, 2006, both by direct notice to vessels, and by **Federal Register** notice on March 24, 2006 (71 FR 14824).

The WPFMC has agreed with the need for the extension for one additional period of not more than 180 days as authorized under section 305(c)(3)(B) of Magnuson-Stevens Act. The WPFMC is currently developing a regulatory amendment to permanently remove the delay in effectiveness. At its 133rd meeting in Pago Pago, American Samoa, the WPFMC voted to recommend the modification of the regulations to

remove the delay in effectiveness and close the shallow-set fishery immediately upon reaching either limit on turtle interactions.

This extension of the emergency rule is necessary to provide additional time to develop and implement a permanent change to the regulations that will remove the delay in effectiveness.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this extension is needed to protect sea turtles until such time as the regulations can be permanently modified to remove the delay in effectiveness in closing the fishery.

This action continues emergency measures implemented March 20, 2006 (71 FR 14416, March 22, 2006), for 180 days. The public was provided with opportunity to submit comment on these measures in the emergency rule published on March 22, 2006. NMFS received public comments supporting closure of the fishery based on documented interactions with sea turtles, and supporting removal of the seven-day delay in effectiveness after notification when closing the fishery, both in the emergency rule, and on a permanent basis. Therefore, the AA finds that it is unnecessary to delay the extension of these measures by providing additional opportunities for public comment, and finds good cause to waive additional public comments under 5 U.S.C. 553(b)(B).

This action extends the current regulatory requirements applicable to the fishery. There are no new requirements with which persons subject to the regulations must come into compliance, and a 30-day delay in effectiveness is unnecessary. For these reasons, the AA finds good cause to waive the 30-day delayed effectiveness provision of the Administrative Procedures Act pursuant to 5 U.S.C. 553(b)(B).

This temporary 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, Pacific Remote Island Areas, Reporting and recordkeeping requirements.

Dated: September 15, 2006.

John Oliver,

Deputy Assistant Administrator for Operations, 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.* and 16 U.S.C. 1531 *et seq.*

■ 2. In § 665.22, add paragraphs (ss) and (tt) to read as follows:

§ 665.22 Prohibitions.

* * * * *

(ss) Engage in shallow-setting from a vessel registered for use under a Hawaii longline limited access permit after the shallow-set component of the longline fishery has been closed pursuant to § 665.33(b)(2), in violation of § 665.33(I).

(tt) Fail to immediately retrieve longline fishing gear upon receipt of actual notice that the shallow-set component of the longline fishery has been closed pursuant to § 665.33(b)(2), in violation of § 665.33(i).

* * * * *

■ 3. In § 665.33, paragraphs (b)(2)(i) and (ii) are suspended and paragraphs (b)(2)(iii) and (iv) are added to read as follows:

§ 665.33 Western Pacific longline fishing restrictions.

* * * * *

(b) * * *

(2) * * *

(iii) As soon as practicable, the Regional Administrator will sign the closure notice and provide actual notice via telephone, satellite telephone, radio, electronic mail, facsimile transmission, or post, to all vessel operators and holders of Hawaii longline limited access permits, that the shallow-set component of the longline fishery is closed and that shallow-set longline fishing north of the equator by vessels registered for use under Hawaii longline limited access permits will be prohibited beginning on a specified date and time, and that all such fishing gear must be immediately removed from the water and the fishing trip terminated. As soon as practicable, the Regional Administrator will also file for publication at the Office of the **Federal Register** the notification that the sea turtle interaction limit has been reached. The notification will indicate that the Hawaii-based shallow-set component of the longline fishery is closed, and shallow-set longline fishing north of the equator by vessels registered for use under Hawaii longline limited access permits was prohibited beginning on the specified date and time when notice was provided, until the end of the calendar year in which the sea turtle interaction limit was reached.

(iv) Beginning on the fishery closure date and time indicated by the Regional Administrator in the notification provided to vessel operators and permit holders and published in the **Federal Register** under paragraph (b)(2)(iii) of this section, until the end of the calendar year in which the sea turtle interaction limit was reached, the Hawaii-based shallow-set component of the longline fishery shall be closed.

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[FR Doc. 06–7770 Filed 9–15–06; 11:53 am]

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Proposed Rules

Federal Register
Vol. 71, No. 181
Tuesday, September 19, 2006

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

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 490

RIN 1904–AB67

Alternative Fuel Transportation Program; Replacement Fuel Goal Modification

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE or Department).

ACTION: Notice of proposed rulemaking (NOPR) and public hearing.

SUMMARY: DOE proposes to modify the 2010 goal of 30 percent of U.S. motor fuel production to be supplied by replacement fuels, established in section 502(b)(2) of the Energy Policy Act of 1992 (EPAct 1992), because it is not achievable. The Department has authority to review the goal and to modify it, by rule, if it is not achievable, and in doing so may change the percentage level for the goal and/or the timeframe for achievement of the goal. The Department has determined through its analysis that the 30 percent replacement fuel production goal could potentially be met, not by 2010, but at a later date. The Department consequently is proposing in this notice to keep the replacement fuel goal of 30 percent originally provided in EPAct 1992 (section 502(b)(2)), but extend the date for achieving the goal to 2030.

DATES: Written comments (preferably provided electronically, but if not possible, then eight copies) on the proposed modification must be received by DOE on or before November 3, 2006; electronic copies of comments may be submitted as described below.

Oral views, data, and arguments may be presented at the public hearing, which will be held on October 3, 2006. The length of each oral presentation is limited to 10 minutes. The public hearing will be held at the U.S. Department of Energy, Room GJ–015, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Requests to speak at the hearing must be submitted to DOE no later than 4 p.m., September 26, 2006.

ADDRESSES: Written comments (eight copies) and requests to speak at the public hearing should be addressed to: U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE–2G, RIN 1904–AB67, 1000 Independence Avenue, SW., Washington, DC 20585–0121. E-mails may be sent to: *regulatory_info@afdc.nrel.gov*. Comments may also be submitted through the Federal Rulemaking Portal at *http://www.regulations.gov*. DOE is currently using Microsoft Word. Organizations are strongly encouraged to submit comments electronically, to facilitate timely receipt of comments and ease inclusion in the electronic docket.

Copies of this notice, the transcript from the hearing, and written comments will be placed at the following Web site address: *http://www.eere.energy.gov/vehiclesandfuels/epact/private_fleets.shtml*. Interested parties may also access these documents using a computer in DOE's Freedom of Information (FOI) Reading Room, U.S. Department of Energy, Forrestal Building, Room 1E–190, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–3142, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

For more information concerning public participation in this rulemaking, see the "Opportunity for Public Comment" section found in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: To request a copy of this notice or arrange on-site access to paper copies of other information in the docket, or for further information, contact Mr. Dana V. O'Hara, Office of Energy Efficiency and Renewable Energy (EE–2G), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0121; (202) 586–9171; *regulatory_info@afdc.nrel.gov;* or Mr. Chris Calamita, Office of the General Counsel, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0121; (202) 586–9507.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Energy Policy Act of 1992 (EPAct 1992), Public Law 102–486, established an interim goal of developing sufficient U.S. domestic replacement fuel production capacity to replace 10 percent of projected total motor fuel use by the year 2000 and a final goal of 30 percent by the year 2010, with at least one half of such replacement fuels being domestic fuels. Pursuant to EPAct 1992, DOE is required to review these goals periodically and publish the results and provide opportunities for public comments. If DOE determines that the goals are not achievable, EPAct 1992 section 504(b) directs DOE to modify, by rule, the percentage requirements and/or dates, so that the goals are achievable. (42 U.S.C. 13254(b)) The Department believes that in order for a goal to be achievable, there must be a reasonable expectation that the desired level of replacement fuels production capacity will develop within the relevant timeframe.

The purpose of this NOPR is to review the existing 2010 replacement fuel production goal; determine whether the goal is achievable; and if the goal is not achievable, propose a new replacement fuel production goal. Today's NOPR also implements the March 6, 2006, order of the U.S. District Court for Northern District of California to prepare and publish a notice of proposed rulemaking to modify EPAct 1992's replacement fuel production goal for 2010. *See Center for Biological Diversity* v. *U.S. Department of Energy et al.*, No. C 05–01526 WHA (Order on Cross-Motions for Partial Summary Judgment).

II. Replacement Fuel Production Goal

A. Statutory Requirements

Section 502(a) of EPAct 1992 requires the Secretary of Energy (Secretary) to establish a program to promote the development and use of "domestic replacement fuels" and to "promote the

replacement of petroleum fuels with replacement fuels to the maximum extent practicable" (42 U.S.C. 13252(a)). Section 502(b) establishes production goals for replacement fuels (42 U.S.C. 13252(b)). The relevant portions of 502(b) are:

> (b) Development Plan and Production Goals—[T]he Secretary * * * shall review appropriate information and—
> * * * * * *
> (2) determine the technical and economic feasibility of achieving *the goals of producing sufficient replacement fuels* to replace, on an energy equivalent basis—
> (A) at least 10 percent by the year 2000; and
> (B) at least 30 percent by the year 2010, of the projected consumption of motor fuel in the United States for each such year, with at least one half of such replacement fuels being domestic fuels;
> 42 U.S.C. 13252(b)(2) [emphasis added].

For the purposes of this NOPR, the "replacement fuel production goal" or the "goal" refers to the 30 percent production goal by 2010 (42 U.S.C. 13252(b)(2)(B)), unless otherwise noted. DOE believes the 10 percent production goal was meant to be an "interim" milestone to help gauge the progress to the 30 percent production goal. As noted elsewhere in this NOPR, DOE has evaluated the status of the 2000 interim goal and determined that it was not met. Furthermore, DOE has evaluated and proposes to determine that the 2010 goal is not achievable. Adopting a revised interim goal would not assist DOE in carrying out its obligation to revise the 2010 replacement fuel goal. Moreover, DOE notes that the Court order referenced earlier instructs DOE to "publish a Notice of Proposed Rulemaking for a revised replacement fuel goal." [1] DOE, therefore, is proposing in this notice to focus on the final goal in section 502(b)(2). In addition, the analyses presented later in this notice nevertheless project potential replacement fuel levels for the intervening years without establishing a specific interim level or target date.

DOE will periodically evaluate the prospects for achieving the replacement fuel goal proposed in today's notice, including tracking the levels projected for intervening years, and will publish the results of its evaluations as necessary.

Since 1992, DOE has taken a number of steps to implement EPAct's replacement fuel programs. DOE coordinates various aspects of the Federal fleets' efforts to comply with the vehicle acquisition requirements established under section 303 of EPAct 1992 (42 U.S.C. 13212). DOE has promulgated and implemented regulations and guidance for alternative fuel providers and State government fleets, which are subject to the fleet provisions contained in sections 501 and 507(o) (42 U.S.C. 13251 and 13257(o), respectively). DOE has also established the Clean Cities Program, which supports public and private partnerships that deploy alternative fueled vehicles (AFVs) and build supporting infrastructure.

However, EPAct 1992 does not provide DOE the authority "to mandate marketing or pricing practices, policies or strategies for alternative fuel, or to mandate the production or delivery of such fuels." (42 U.S.C. 13254(c)) Further, the Department's authority to require the use of alternative fuels is limited.[2]

B. Definitions

The term "replacement fuel" is defined by EPAct 1992 to mean "*the portion of any motor fuel* that is methanol, ethanol, or other alcohols, natural gas, liquefied petroleum gas, hydrogen, coal derived liquids, fuels (other than alcohols) derived from biological materials, electricity (including electricity from solar energy), ethers," or any other fuel that the Secretary determines meets certain statutory requirements. (42 U.S.C. 13211(14) (Emphasis added)).

The term "alternative fuel" is defined to include many of the same types of fuels (such as ethanol, natural gas, hydrogen, and electricity), but also includes certain "mixtures" of petroleum-based fuels and other fuels as long as the "mixture" is "substantially not petroleum." (42 U.S.C. 13211(2) and 10 CFR 490.2).

Thus, a certain mixture might constitute an "alternative fuel," but only the portion of the fuel that falls within the definition of "replacement fuel" would actually constitute a "replacement fuel." For example, M85, a mixture of 85 percent methanol and 15 percent gasoline, would, in its entirety, constitute an "alternative fuel," but only the 85 percent that was methanol would constitute "replacement fuel." Also by way of example, gasohol (a fuel blend typically consisting of approximately 10 percent ethanol and 90 percent gasoline) would not qualify as an "alternative fuel" because it is not "substantially not petroleum," but the 10 percent that is ethanol would qualify as "replacement fuel."

Section 301(12) of EPAct 1992 defines "motor fuel" as "any substance suitable as fuel for a motor vehicle." The goals established in section 502(b)(2) require that DOE evaluate the capacity of producing sufficient replacement fuels to offset a certain percentage of U.S. "motor fuel" consumption. Moreover, the term motor vehicle is defined in EPAct 1992 section 301(13), through reference to 42 U.S.C. 7550(2), as a self-propelled vehicle that is designed for transporting persons or property on a street or highway. Therefore, DOE, for the purposes of Title V of EPAct 1992, has interpreted the term motor fuel to include all fuels that are used in on-road vehicles. This includes fuels used in light-, medium-, and heavy-duty on-road vehicles. (See Private and Local Government Fleet Determination; Final Rule, 69 FR 4219, 4226 (January 29, 2004).)

C. Quantifying the Replacement Fuel Production Goals

The replacement fuel production goals contained in EPAct 1992 would require significant increases in the production of replacement fuels, which if used, would represent a substantial reduction in petroleum motor fuel usage. The 2000 on-road motor fuel consumption in the U.S. was about 10 million barrels per day (mbpd). Thus the 2000 goal of producing sufficient fuel to replace 10 percent of total motor fuel demand would have required the supply of 1 million barrels oil equivalent per day of replacement fuels. The current U.S. production capacity for ethanol, which currently is the most prevalent replacement fuel, is roughly 0.16 million barrels of oil equivalent per day and considerably less than the level of the 2000 goal. In 2010, the U.S. is projected to consume over 12 mbpd of motor fuels and, therefore, the production of 3.7 mbpd in replacement fuels would be required to satisfy the goal of 30 percent replacement fuel.

To further put these figures in perspective, it is helpful to consider the goals in relation to other energy sectors. For example, in 2010, achieving the EPAct 1992 goal would require the replacement of over 3.7 million barrels of oil per day (7.3 quads [3] of energy), equivalent to 9 percent of the total projected domestic energy consumption. (*See* the Energy Information

[1] The order issued on March 6, 2006, by the U.S. District Court for Northern California instructs DOE to issue a revised replacement fuel goal, not goals. *See Center for Biological Diversity* v. *U.S. Department of Energy et al.*, No. C 05–01526 WHA (Order Re Timing of Relief).

[2] Fleets are not required to use alternative or replacement fuel in their AFVs (except for alternative fuel providers, which are required by section 501(a)(4) of EPAct to use alternative fuel in their AFVs.)

[3] One quad equals one quadrillion BTU, which is equivalent to 172.414 million barrels of crude oil.

Administration's (EIA) Annual Energy Outlook (AEO) 2006,[4] Tables A2 and A7.)

Moreover, the 2010 replacement fuel goal for motor fuels set forth in EPAct 1992 is almost equivalent to the total energy demand for the entire commercial sector (service-providing facilities and equipment of business; Federal, State, and local governments; and other public and private organizations), which is projected to account for 11.5 percent of total energy consumption in 2010. The 30 percent goal also represents the equivalent of twice as much energy as is projected to be supplied by all renewable fuels across all sectors, and roughly the equivalent to the total energy currently supplied by U.S. nuclear power generating facilities. Achieving the existing statutory replacement fuel goal also becomes more difficult each year as more vehicles are placed in service and vehicle miles traveled increases. In this decade alone, motor fuel demand is expected to increase by nearly 2.5 million barrels per day (from 2000 to 2010).

Seen another way, in order to meet the existing 2010 goal, the U.S. would need to replace, in the next three years, over 90 million of the 130 million light-duty passenger cars on the road today with AFVs running 100 percent of the time on alternative fuels. Since there are currently about six million AFVs in the U.S., meeting this goal would require a 15-fold increase in AFVs within the next three years—basically requiring nearly five years' worth of vehicle sales in only three years, and every vehicle sold would have to be an AFV.

In discussing the United States' transportation energy issues, Brazil is often suggested as a potential model to follow for petroleum replacement. In 2004, Brazil was able to replace approximately 44 percent of its gasoline consumption (on a volume basis), or 34 percent on an energy-adjusted basis, with ethanol. Brazil's transition to ethanol began in the 1970s and has experienced a significant ramp-up over the past 10 years. However, this level of replacement fuel does not account for the large amount of diesel fuel consumed in Brazil, and thus the total petroleum replacement provided by ethanol in Brazil is much less than the 34 percent level reported above.

The fact that the U.S. already produces more ethanol than Brazil annually (yet replaces less than 3 percent of its motor fuels) reveals that this country's petroleum dependence is significantly larger than Brazil's. It would take a considerable amount of time for the U.S. to achieve similar results, on a percentage basis, given the time it would take to develop the production capacity of the magnitude required to reach the 30 percent level.

[4] The AEO is EIA's long-term forecast of energy supply, demand, and prices, based on upon results from EIA's National Energy Modeling System (NEMS). EIA is an independent statistical and analytical agency within DOE.

III. Achievability of the Goal

A. Statutory Requirements

Section 504(a) of EPAct 1992 requires DOE to periodically "examine" the goals established in section 502(b)(2) and determine whether they should be modified. (42 U.S.C. 13254(a)) The examination of the goals is to be made taking into account the program goals stated under section 502(a), namely to promote the development and use of "domestic replacement fuels" and to "promote the replacement of petroleum fuels with replacement fuels to the maximum extent practicable."

As an initial matter, DOE notes that it is unaware of any analysis or technical data that was used by Congress in 1992 as a basis for setting the 10 percent and 30 percent replacement fuel goals set forth in EPAct 1992. Thus, DOE is aware of no affirmative determination by Congress or by any agency that, at the time they were set, the statutory goals were reasonably achievable. Regardless, and as described and discussed below, the Department periodically has evaluated the feasibility of the goals.

B. Previous Analyses of the Existing Goals

1. Technical Report 14

Several previous efforts were made by the Department to analyze the replacement fuel goal. The first effort was in 1996, as part of the Assessment of Costs and Benefits of Flexible and Alternative Fuel Use in the U.S. Transportation Sector, Technical Report Fourteen: Market Potential and Impacts of Alternative Fuel Use in Light-Duty Vehicles: A 2000/2010 Analysis (U.S. Department of Energy, Office of Policy and Office of Energy Efficiency and Renewable Energy, January 1996, report number DOE/PO–0042), to be referred to as Technical Report 14. To analyze the potential for replacement fuels, Technical Report 14 relied upon the Alternative Fuels Trade Model (AFTM), a long-run static equilibrium model that estimates prices and quantities that balance the interrelated world oil and gas markets, given assumptions about supply, demand, and costs. This model allows for comparisons between a baseline or benchmark case against a modified case (the unconstrained case), or even a series of modified cases.

Technical Report 14 estimated that overall replacement fuel use in light-duty vehicles in 2010 would range from 12.4 percent to 45.8 percent assuming various policies measures are adopted and mature alternative fuel industries are permitted to develop. Out of all of the cases run (30 in total), two-thirds (20) resulted in replacement fuel use of 30 percent or more of light-duty fuel use. (Technical Report 14 pp. 6–8 and 14–15). The higher penetration levels presented typically occur when utilizing the EIA AEO 1994 reference case oil prices (compared to Technical Report 14's other major cases which were run under only low oil prices). The report projects most alternative fuels and replacement fuels as being competitive with petroleum motor fuels when the reference fuel prices are used. When low oil prices are used, alternative fuel and replacement fuel use declines. The most significant replacement fuel levels projected occur when greenhouse gas (GHG) emissions are constrained. The scenarios constraining GHG emissions result in higher levels of alternative fuels used because typically most alternative fuels are less carbon-intensive than petroleum fuels.

The benchmark cases evaluated project much lower levels of replacement fuel use (less than 13 percent) and do not assume new policies or mandates to facilitate replacement fuel use. The benchmark cases also assume the existence of transitional barriers, which are not present for the most part in the other scenarios evaluated. In the case without transitional barriers or the "unconstrained case," alternative fuel vehicles and alternative fuel infrastructure is assumed to exist in sufficient numbers to allow significantly increased levels of replacement fuel use, assuming they are otherwise cost-competitive.

Overall, Technical Report 14 concluded that at least in 1996, displacing 30 percent of light-duty motor fuel use appeared theoretically feasible by 2010, assuming certain policies and market conditions materialize. However, Technical Report 14 only considered replacement fuels in the context of motor fuel demand by on-road light duty vehicles. Light-duty fuel use in the U.S. is typically 75–80 percent of all motor fuel use, so achieving 30 percent replacement of light-duty fuel use equates to replacing approximately 22–24 percent of all motor fuel use.

2. EPAct 1992 Section 506 Report

The second major attempt by the Department to evaluate the replacement fuel picture was made at the end of the last decade, in the report Replacement Fuel and Alternative Fuel Vehicle Analysis Technical and Policy Analysis, Pursuant to Section 506 of the Energy Policy Act of 1992 (U.S. Department of Energy, Energy Efficiency and Renewable Energy, Office of Transportation Technologies, December 1999 with amendments September 2000), hereinafter section 506 report. The report is available at *http://www.eere.energy.gov/vehiclesandfuels/epact/pdfs/plf_docket/section506.pdf.*

The report concluded that it was unlikely that the 10 percent and 30 percent goals contained in EPAct 1992 would be achieved given the limited statutory authorities provided to DOE and the relatively low price of petroleum motor fuels that had occurred in the time since EPAct 1992's passage. An addendum issued in 2000 indicated that significantly higher oil prices (in the $30 per barrel range) might lead to additional replacement fuel use, but would not alter the original conclusion that achievement of the goals was unlikely.

Despite the conclusion concerning achievability, the report did not take the additional step of making a determination under EPAct 1992 section 504(b) that the goals were not achievable; nor did the report seek to revise the statutory replacement fuel goals. The report did indicate DOE's continued support for alternative fuel and replacement fuel programs, and concluded that alternative fuels could provide significant benefits in terms of greenhouse gas emission reductions and oil savings. Like Technical Report 14, the section 506 report indicated that the 30 percent goal is achievable eventually if certain obstacles are overcome, mainly that alternative and replacement fuels become more price competitive with petroleum motor fuels. However, the report highlights the significant lead-times necessary to get sufficient vehicles on the road and the steep ramp-up that must occur to increase the use of replacement fuels.

3. Transitional Alternative Fuels and Vehicles (TAFV) Model Report

The next report to consider the achievability of the replacement fuel goals was the TAFV Model Report. *See* The Alternative Fuel Transition: Results from the TAFV Model of Alternative Fuel Use in Light-Duty Vehicles 1996–2000 (ORNL.TM2000/168) (September 17, 2000). This report was completed shortly after the section 506 report. It examined multiple pathways toward increased replacement and alternative fuel use. The major difference between the TAFV report and earlier reports is that it used a dynamic transitional model to analyze potential replacement fuel pathways. Many of the earlier studies and analyses used single-period equilibrium models and also assumed no transitional barriers to increased alternative fuel and replacement fuel use. The TAFV report includes a number of scenarios that assume no transitional barriers but it also includes multiple pathways that do include analysis of transitional barriers.

The TAFV report is instructive in that it highlights just how difficult it will be to achieve the 30 percent replacement fuel production goal. Of the policy options considered, only one achieves the 30 percent goal in the 2010 timeframe and that case relies on a retail sales mandate for alternative fuels (an option that is not authorized by statute.) Of the cases reviewed both with and without transitional barriers, replacement fuel levels achieved were less than 20 percent. Several other policy options led to increased use of replacement fuel use but all of them required authority beyond that currently afforded DOE. For example, these scenarios relied on a low-GHG fuel subsidy or increased Corporate Average Fuel Economy (CAFE) standards to lead to larger levels of replacement fuel use; however, even in the high oil price case, the GHG fuel subsidy resulted in only about 22 percent replacement fuel use by that year. Most of the other policy options considered led to no more than 10 percent replacement fuel use by 2010. The TAFV report also concluded that it was unlikely the 2010 replacement fuel goal would be achieved without significant policy changes, including incentives for the "expansion of vehicle production and fuel availability."

Another important factor to consider is that the replacement fuel levels projected in the TAFV report only considered light-duty fuel and thus overstated the actual potential replacement fuel levels by about 25 percent. The report is available for review at: *http://www.eere.energy.gov/vehiclesandfuels/epact/pdfs/plf_docket/tafv99report31a_ornltm.pdf.*

In summary, the section 506 report and TAFV 2000 Report both concluded that it would be difficult and unlikely, but not impossible, to achieve the 2010 replacement goal in EPAct 1992. In neither of these reports issued in mid/late 2000 did DOE make a determination under EPAct 1992 section 504(b) that the statutory replacement fuel goals were not achievable—*i.e.*, the determination that would have triggered a statutory obligation to set a new, achievable, replacement fuel goal. The Department chose to take a "wait and see" approach regarding the need to revise the 2010 goal.

C. Current Review and Analysis of the Goal

In the development of this proposed rule, DOE evaluated the prospects for achieving the replacement fuel goals set out in the Energy Policy Act of 1992, which call for developing the capacity to produce enough replacement fuels to offset 10 and 30 percent of the on-highway motor fuels projected consumption for 2000 and 2010, respectively. Based on actual data reported for 2000, the 10 percent replacement fuel goal was not achieved. Replacement fuel use in that year totaled about 4.7 billion gallons, or only about 2.9 percent of the 162 billion gallons of on-highway motor fuel consumed. Of this amount, oxygenates in the form of ethanol and Methyl Tertiary Butyl Ether (MTBE) supplied about 92 percent of the replacement fuel production. (*See* Transportation Energy Data Book—26th Edit., Table 2.3 (2006) (replacement fuel use) and FHWA Motor Fuel Use Report, Table MF–21; *http://199.79.179.101/ohim/hs00/mf.htm.*)

Based on EIA's latest forecast (AEO 2006), replacement fuels currently supply approximately 2.5 percent of the total motor fuel used in on-road motor vehicles. The amount of replacement fuel used, as a percent of total motor fuel consumed, has essentially been flat for the past decade despite an increase in use of alternative and replacement motor fuels. This is because the growth in replacement fuels has been matched by the growth in petroleum motor fuels.

Additionally, the recently accelerated phase-out of MTBE as an additive in gasoline has limited the total amount of replacement fuels consumed since MTBE previously accounted for a significant portion of these fuels. Because a gallon of MTBE contains more energy than a gallon of ethanol, replacing MTBE with ethanol may result in more gallons of ethanol used, but not in a higher replacement fuel level, since the level of replacement (percentage) is calculated on an energy content basis. This replacement of MTBE with ethanol partly explains why replacement fuels have not garnered a larger share of the on-road fuels market on an energy basis, even as ethanol use has increased quite

significantly in the past several years, increasing from a level of slightly more than 1 billion gallons in 2002 to 4 billion gallons in 2005.

The EIA AEO 2006 reference case projects that replacement fuels in 2010 will account for approximately 2.94 percent of total on-road motor fuels, or approximately 5.7 billion gallons of gasoline equivalent replacement fuel. As noted above, ethanol production is increasing significantly but some of this increase is offset by the near complete phase-out of MTBE expected by 2010. Given the short-term nature of the 2010 goal, it appears that ethanol would be the primary replacement fuel option to consider. Some production capacity for ethanol now exists, with increases in capacity projected over the next few years, partly in response to the Renewable Fuel Standard established by the Energy Policy Act of 2005. Ethanol can be used in low-level blends with gasoline in conventional vehicles already on U.S. roads, and methods to distribute ethanol already exist. The changes in distribution and infrastructure needed for other fuels (*e.g.*, gaseous fuels or electricity) to make major contributions would be much longer term in nature, and thus largely impractical for serious consideration before 2010. Therefore, ethanol in blends is expected to account for about 80 percent of the replacement fuels produced in 2010, with the remaining balance made up of mostly natural gas and propane. Even in the AEO 2006 high price forecast, replacement fuels only account for slightly more than 3 percent of total on-road motor fuel in 2010.

For replacement fuels to replace 30 percent of the motor fuel produced in 2010, replacement fuel production would have to increase more than 10-fold, to nearly 60 billion gallons. Even if extraordinary measures were undertaken, replacement fuel production could not be ramped up enough to meet the level required to achieve the 30 percent replacement fuel goal in three years. By way of illustration, if all the corn currently produced in the U.S. were used to produce ethanol, the amount of ethanol produced would only be about 18 billion gallons of gasoline equivalent, which constitutes only 9 percent of U.S. motor fuels.

DOE therefore proposes to determine that the existing EPAct 1992 replacement fuel goal of 10 percent for 2000 was not met and that the goal of 30 percent for 2010 is not achievable, considering all information available and the economic and technical feasibility of achieving the 2010 goal.

IV. Goal Modification and Background

A. Statutory Requirements

Section 504(b) requires "[i]f, after analysis of information obtained in connection with carrying out subsection [504](a) [which requires periodic review of the replacement fuel goals] or section 502, or other information, and taking into account the determination of technical and economic feasibility made under section 502(b)(2), the Secretary determines that goals described in section 502(b)(2), including the percentage requirements or dates are not achievable, the Secretary, in consultation with appropriate Federal agencies, shall, by rule, establish goals that are achievable, for the purposes of this title" (42 U.S.C. 13254(b)). In modifying the goal, DOE may promulgate an achievable goal by adjusting the level of the goal and/or adjusting the timeframe of the goal.

The Department has proposed to determine that the EPAct 1992 replacement fuel goal of 30 percent by 2010 is not achievable. That determination, if finalized, would require the Department to establish a new goal, by rule which is achievable. Section 504 makes clear that achievability of the goal is key, both for analysis of the goal as well as modifying the goal. EPAct 1992, however, does not define "achievable" for the purpose of modifying the goal. Section 502(b)(2) directs DOE to consider the technological and economic feasibility of the statutory goal in determining the goal's achievability under the initial review. The Department interprets the term to mean that in order for a goal to be achievable, there must be a reasonable expectation, based on technological and economic feasibility, that the desired level of production capacity will be created within the relevant timeframe.

B. Previous Rulemaking

Section 507(c) directed the Department to issue an Advanced Notice of Proposed Rulemaking (ANOPR) that, in part, would evaluate the progress toward achieving the replacement goal and assess the adequacy and practicability of the goal. (42 U.S.C. 13257(c)) In response to that directive, DOE issued an ANOPR on April 17, 1998 (63 FR 19372). DOE conducted three public hearings (Minneapolis, Minnesota; Los Angeles, California; and Washington, DC) and solicited written comments from the public on the ANOPR. More than 110 interested parties responded by providing written and oral comments. Comments were received through July 16, 1998. DOE has reviewed all of these comments and, in the following paragraphs, provides a summary of and DOE's response to those comments relevant to the replacement fuel goal.

In the ANOPR, DOE requested comments on 23 specific questions covering three broad areas: Replacement fuels, fleet requirements, and urban transit buses. Only the first set of questions is relevant to today's rulemaking. A detailed discussion of these comments was previously provided in the notice of proposed rulemaking for the Private and Local Government Fleet Determination, 68 FR 10320, 10326–10328 (March 3, 2003).

The questions raised in the 1998 ANOPR addressed whether the existing replacement fuel goal for 2010 was achievable, and if not, what goal would be achievable; how DOE should determine achievability; what should be done to maximize use of replacement fuels (such as mandates and incentives); and how DOE should determine the impact of replacement fuels.

Comments about the goal were received from more than 40 individuals or entities, and primarily addressed whether the goal of replacing 30 percent of the U.S. motor fuel by 2010 was considered achievable. While generally lacking specific goal levels and dates to inform today's action, the comments did identify likely problems in achieving the existing goal. Almost half of the comments received that explicitly addressed this question regarded the goal as unachievable. By an even wider margin, those submitting comments considered the goal unachievable under present economic conditions, and many offered suggestions as to what changes would be required to make the goal feasible. Only one comment was received which suggested a specific revised goal, while several others suggested that modifying the goal would be as arbitrary as the original goal.

Comments received were in general agreement that the lack of alternative fuel infrastructure, low petroleum fuel prices, and various limitations on alternative fuel vehicle availability were key barriers to achievement of EPAct 1992's 30 percent replacement fuel production goal. Numerous comments were received suggesting a variety of incentives (such as tax credits) to spur greater production and use of replacement fuels. Virtually no comments were received suggesting additional data relevant to the decision at hand, nor concerning how to determine the impact of efforts to increase replacement fuel use.

C. Final Private and Local Determination/Court Decision

DOE previously addressed the issue of whether to revise the replacement fuel production goal for 2010 contained in EPAct 1992 in the context of its determination that an AFV acquisition mandate for private and local government fleets was not necessary. (*See* 69 FR 4219; January 29, 2004.) Section 507(e) directs the Department to consider whether a fleet requirement program is "necessary" for the achievement of the replacement fuel goals. (42 U.S.C. 13257(e)) As part of the Department's decision under that directive, DOE stated in its notice of final rulemaking that a private and local government fleet rule would "not appreciably increase the percentage of alternative fuel and replacement fuel used by motor vehicles" (69 FR 4220). DOE further concluded that "adoption of a revised goal would not impact its determination that a private and local government rule * * * would not provide any appreciable increase in replacement fuel use" (69 FR 4221). DOE, therefore, did not revise the replacement fuel goal at the time but indicated that it would continue to evaluate the need to revise the statutory goal in the future.

Subsequent to the publication of the January 29, 2004, final rule, DOE was sued in Federal court by the Center for Biological Diversity and Friends of the Earth for failing to impose a private and local government fleet acquisition mandate and for not revising the replacement fuel production goal for 2010 as part of its determination. On March 6, 2006, the U.S. District Court for the Northern District of California invalidated DOE's final determination regarding the private and local government fleet mandate and ordered DOE to revise the replacement fuel production goal for 2010. (*See Center for Biological Diversity* v. *U.S. Department of Energy et al.*, No. C 05–01526 WHA (Order on Cross-Motions for Partial Summary Judgment).) In its order, the Court directed DOE to prepare notices of proposed rulemaking and final rules on both the replacement fuel goal for 2010 and the private and local government fleets determination. Today's notice fulfills the Court's requirement that DOE "shall publish a Notice of Proposed Rulemaking for a revised replacement fuel goal by no later than September 6, 2006." (*See* the Court's timeline order at p. 2 of the order.) This is the initial step to a later rulemaking that DOE will conduct to decide whether a private and local government fleet mandate is necessary.

D. Advanced Energy Initiative

The President's Advanced Energy Initiative sets out an aggressive course for reducing the Nation's dependence on foreign petroleum. This initiative, announced in the President's State of the Union address in January 2006, sets a national goal of replacing more than 75 percent of the U.S. imports from foreign sources by 2025. The Advanced Energy Initiative emphasizes technology developments as the key to reducing energy dependence, including several in the area of replacement fuels. These appear under the portion of the Initiative focused on "Changing the way we fuel our vehicles", which indicates:

> We can improve our energy security through greater use of technologies that reduce oil use by improving efficiency, expansion of alternative fuels from homegrown biomass, and development of fuel cells that use hydrogen from domestic feedstocks.

The Advanced Energy Initiative is available on the White House Web site at the following location: *http://www.whitehouse.gov/stateoftheunion/2006/energy/*.

V. Goal Modification Analysis

Given the timeframe set by the Court, in this NOPR, the Department has had to rely on the best information and data currently available. The Department searched and reviewed relevant internal and external reports, studies, and analyses on alternative and replacement fuel use and projected production. The pertinent information was compiled to assist in the development of an "achievable goal."

A. Approach

The Department has several options, in accordance with the authority provided in section 504 of EPAct 1992. First, DOE could modify the goal level to what it believed was achievable in the 2010 timeframe, probably around the 3 percent projected in the AEO 2006. DOE estimates that given technical and other constraints in this short timeframe, expanding production of replacement fuels much beyond 3 percent by 2010 is unlikely as previously discussed.

The other primary option would be to move the goal out in time, since the potential contributions from replacement fuels increase over time. A third option would be to combine the two primary options and modify both the replacement fuel level and date. In analyzing the data, DOE looked at all of these options. The Department evaluated credible data, projections, and other information covering approximately the next 25 years, to see what could be achievable. The Department's evaluation and analysis went out to 2030, since that is the last date for which credible input existed, particularly in the form of the AEO 2006.

In general, the analytical framework included only existing statutory authorities and incentives in the development of the technologies. The only exception was in DOE's Hydrogen, Fuel Cells and Infrastructure Technologies Program (Hydrogen Program) which did consider additional incentives and/or mandates in the future as is discussed later in this section. Therefore, the primary variables in the Department's analysis were projected technological and economical improvements.

B. Building Blocks

The replacement fuel production goal proposed in this NOPR was developed after careful consideration of existing market factors, energy forecasts, and programs directed by the Department and its national laboratories. Three combined building blocks were considered: (1) The reference case projected by EIA in the AEO 2006; (2) the high price case presented in the AEO 2006; and (3) projections from the DOE programs conducting research and development (R&D) on replacement fuel and vehicle technologies. The outcome of this effort is several different cases under which varying levels of replacement fuel are potentially achieved.

Each of these three combined building blocks includes a number of smaller building blocks which were assembled to form the combined building blocks. These building blocks include replacement fuel and vehicle technologies, with projected contributions based on either the high or reference prices from the AEO, or the DOE program development projections. Some of the building blocks are relevant to all of the scenarios, while others appear in a limited number of scenarios. As indicated above, the Department evaluated data out through 2030, at periodical intervals. In all cases, the highest levels of replacement fuels appear in 2030. Below is a description of the building blocks and "cases" which were used to develop the four scenarios, described in the subsequent section.

1. AEO 2006 Reference Case Description

The AEO 2006 reference case is the base case assembled by EIA. It takes into account developments that are likely to occur as a result of technologies and

policies that exist today. It does not account for potentially new policies, or legislation. The reference ease also includes a number of other critical assumptions including economic growth rates and oil prices. The AEO 2006 reference case assumes a U.S. economic growth rate of 3 percent per year. Oil prices in this case are projected to fluctuate from the high $40 range to mid $50 range and peak at $57 in 2030. The AEO indicates that the oil price projection in the reference case represents EIA's "current judgment regarding the expected behavior of the Organization of Petroleum Exporting Countries (OPEC) producers in the long term, adjusting production to keep world oil prices in a range of $40 to $50 per barrel" (AEO 2006, p. 206).

According to the reference case, potential replacement fuel levels will grow from the 2005 level of 2.63 percent of total motor fuel use to 8.65 percent in 2030. To arrive at a potential replacement figure, DOE used the figures provided in the AEO 2006 but made the additional assumption that all of the coal-to-liquid (CTL) fuels in the AEO 2006 figures are used in the transportation sector and count as replacement fuels for purposes of section 502 of EPAct 1992. A significant portion of CTL is expected to be used as jet fuel, so a somewhat smaller portion than assumed here would probably be used for on road motor vehicle transportation. In the reference case, the CTL fuels account for slightly more than half of the total replacement fuels in 2030 or about 4 percent. Realistically, DOE expects a portion of CTL fuels may be used for non-transportation purposes (such as industrial.) However, it is anticipated that the transportation sector is likely to represent the highest-value use of these fuels. While it is unclear at this time to what extent they will be supplied to non-transportation sectors, the projected high-value of motor vehicle fuels would likely result in the majority of CTL production being used as motor fuels . the transportation sector. Therefore, the figure used with the AEO 2006 reference case description represents an upper bound for CTL fuel produced for the transportation sector. (*See* below for additional discussion on CTL fuels.) The other replacement fuels included in the reference case for 2030 are ethanol at slightly over 3 percent, biodiesel at less than a quarter of a percent, and "other alternative fuels" at less than 1 percent. The "other alternative fuels" are discussed below. Hydrogen use occurs in the AEO reference case but is minimal.

2. AEO 2006 High Price Case Description

The high price case makes "more pessimistic assumptions for worldwide crude oil and natural gas resources than in the reference case" (AEO 2006, p. 204). In particular, OPEC resources and production capacity are projected to be lower in this case. As a result, oil prices rise to nearly $90/barrel by 2030. Even in the high price case, however, some of the projected prices are considerably lower than today's levels and only rise to $70/barrel in 2013 and $80/barrel in 2018. The high oil price forecast for the next several years ranges from $50 to $60. In this case, transportation energy demand also is reduced because of high petroleum prices, which tend to encourage fuel efficiency. At the same time, higher oil prices in general also encourage more replacement fuel use. The result is that the replacement fuel potential of the high price case is more than double the reference case, rising to a level of almost 18 percent in 2030.

As in the reference case, CTL fuels account for a large share of the total replacement fuels. Of the nearly 18 percent replacement fuel level, CTL accounts for more than 11 percent with a total production capacity of 1.69 million barrels per day. Thus, the CTL level more than doubles from the reference case projection. As noted above, DOE assumes that all of the CTL produced is used for transportation purposes and therefore counts toward the replacement fuel goal provisions in section 502 of EPAct 1992. This represents an upper bound of the potential for CTL since it is likely that not all the CTL produced will be used as a transportation motor fuel. Ethanol production and the other alternative fuels largely are unchanged from the reference case. However, gas-to-liquid (GTL) fuels for the first time show up as a potential replacement fuel, accounting for approximately 1.31 percent petroleum replacement and providing about 0.19 million barrels of oil equivalent production per day. GTL fuels are discussed in the Program Development Case section below because DOE has an active program underway to increase their potential.

3. DOE Program Development Case Description

The DOE program development case represents the potential replacement fuel levels achieved if DOE is successful in accelerating the introduction of technologies and new fuels through its R&D programs. These levels are predicated on the respective programs continuing existing R&D activities and the achievement of technology goals/milestones that have been set. They also depend on economic targets being achieved and market acceptance of the technologies and fuels reviewed; however, for the most part, they do not rely upon new policy or regulatory initiatives. Information to support these cases came primarily from the relevant Energy Efficiency and Renewable Energy and Fossil Energy programs, and included Government Performance and Results Act (Pub. L. 103–62; August 3, 1993; GPRA) analyses and recently released technical reports identifying potential contributions of various fuel and vehicle technologies. (For more information concerning GPRA analyses, *see http://www1.eere.doe.gov/ba/pba/gpra_estimates/fy_07.html.*)

The GPRA analysis specifically was relied on for the figures used for the Hydrogen Program and the fuel-efficiency savings rates projected for the EERE's FreedomCAR and Vehicles Technologies Program (FCVT). It should be noted that the GPRA figures are based on the AEO 2005 forecast and not AEO 2006 because it was not available when the most recent GPRA analysis was conducted. In the case of hydrogen, therefore, this means that the analysis presented here is based on last year's AEO and thus probably understates the contribution of hydrogen because oil prices (a major factor in determining alternative fuel use levels) were much lower in AEO 2005. In the case of FCVT's fuel efficiency savings, DOE calculated a savings rates based on last year's GPRA report and applied this figure to AEO 2006's projection of on-road motor fuel use.

The discussion below includes the programs and fuels that contribute to the replacement fuel goal, including fuel efficiency measures, ethanol, biodiesel, coal-to-liquid fuels, gas-to-liquid fuels, hydrogen, other alternative fuels, and plug-in hybrid-electric vehicles (PHEVs). In particular, the technologies and fuels for which information was received from DOE program offices include fuel efficiency measures, ethanol, gas-to-liquid fuels, hydrogen, and electricity in PHEVs.

Section 504(b) of EPAct 1992 requires that the goal, as modified, be achievable. (42 U.S.C. 13254(b)) As part of our determination as to whether a goal would be achievable, the Department considered technologies that are technically and economically feasible today. The Department also considered technologies that currently may not be technologically or economically feasible, but that we reasonably expect to be technologically and economically feasible given the achievement of

certain conditions in the timeframes necessary to contribute to the goal. Thus, for any technology included in the analysis that is not now considered technically and economically feasible, the discussion below includes information on the conditions the Department considers necessary for such technologies to be technologically and economically feasible.

a. Energy Efficiency for Light-Duty, Medium-Duty, and Heavy-Duty Vehicles

The EPAct 1992 replacement fuel goal does not directly take into account improvements in fuel efficiency because the goal is measured in terms of the percentage of motor fuels provided by replacement fuels. Fuel efficiency improvements to motor vehicles, however, indirectly contribute to the achievement of the replacement fuel goal contained in EPAct 1992 by lowering total fuel consumption, resulting in a larger percentage of petroleum replacement provided by a given amount of replacement fuel. Moreover, fuel efficiency is an important objective because it helps conserve all fuels whether they are petroleum or replacement fuels and greater fuel efficiency can lower the cost to consumers of operating motor vehicles. DOE, therefore, has an aggressive R&D program that focuses on accelerating the development of technologies that will greatly improve the fuel efficiency of on-road vehicles including light-duty vehicles, commercial light trucks, and heavy trucks and buses.

EERE's FCVT R&D program is leading to a comprehensive suite of new technologies, including hybrid vehicle components, such as electric motors; energy storage units, such as advanced batteries; and power electronics. It also is working on advanced combustion systems, advanced fuels, lightweight materials, and many other systems to improve the fuel efficiency of today's conventionally-fueled vehicles and pave the way for the advanced technology vehicles of tomorrow, including fuel cell vehicles.

Through its efforts, FCVT expects to dramatically reduce oil consumption by improving the fuel efficiency of personal vehicles, such as passenger cars and light-duty trucks, and doubling the fuel efficiency of commercial vehicles, while also developing the core technologies needed for tomorrow's fuel cell hybrid vehicles. The fuel savings provided by these efforts are expected to be significant. (As discussed below in section VI, changes in the motor vehicle fleet take many years to achieve because of the long replacement rates for motor vehicles. These technology improvements and breakthroughs take a long time to have an impact on petroleum consumption.)

Based on the GPRA analysis conducted by FCVT, DOE projects that fuel efficiency improvements could offset as much as 3.04 million barrels per day of petroleum by 2030. This figure was derived by looking at the GPRA fiscal year 2007 savings rates and comparing them to forecasted on-road petroleum consumption levels in the AEO 2006. A major reason for the reduction in petroleum is the increased fuel efficiency due to increased numbers of diesel-fueled and hybrid-electric vehicles. The FCVT goals analysis indicates much higher levels of these vehicles than forecasted by EIA, which typically relies upon more modest improvements in technologies based upon historical patterns. According to the GPRA analysis, by 2030 conventional gasoline vehicles will only account for 37 percent of new vehicles sales while they account for 80 percent in the AEO reference forecast. The reason for the difference is the much higher level of market penetration projected for new hybrid and diesel-fueled vehicles in the GPRA analysis.

While there is a great deal of promise demonstrated by these technologies, the Department recognizes that their achievement of the levels proposed is not assured. The fuel savings described in this document are specifically contingent on meeting every goal currently set in the FCVT program. If milestones set by the programs are not met, or if oil price levels turn out to be lower than those currently incorporated into programmatic forecasts, there may be some reduction in the penetration of these new technologies and the resulting fuel savings. Further, we note that that the projected fuel savings resulting from the FCVT program were not arrived at through the same type of analysis used to establish fuel economy standards under the National Highway Traffic Safety Administration (NHTSA's) fuel economy rulemaking process. As such, the levels relied upon in this current analysis should not be interpreted as levels that could be set as standards under NHTSA's fuel economy program. Fuel economy standards are set by NHTSA after analyzing vehicle manufacturers' specific product plans and technology data. The level at which the fuel economy standards are set must reflect a balancing of four statutory criteria: technological feasibility, economic practicability, the need of the nation to conserve energy, and the effects of other federal motor vehicle standards on fuel economy. Thus, NHTSA must adhere to a significantly different process when establishing standards, in contrast to DOE's effort here to modify the replacement fuel goal. Nevertheless, the Department believes that it has taken a reasonable approach in relying upon technological improvement projections for the purpose of today's rule.

As noted above, this level of petroleum reduction cannot be directly reflected in the replacement fuel production goal proposed because it offsets petroleum use but does not result in more replacement fuel use. However, because it lowers the total amount of petroleum used, it nevertheless permits replacement fuel production to account for a higher percentage of motor vehicle fuel production than would otherwise be achievable without the petroleum savings. Another indirect benefit of the FCVT programs is the greater market penetration of diesel-fueled vehicles. These vehicles will be increasingly necessary if and when larger amounts of synthetic distillate fuels such as CTL and GTL are to be used in the transportation sector.

b. Ethanol

Ethanol is a two-carbon straight-chain alcohol that is used as both a near-neat fuel (*i.e.*, as E85) and in low-level blends with gasoline (at up to 10 percent ethanol by volume). Ethanol can be produced from a variety of feedstocks, including ethylene, corn, sorghum, and biomass, and using a variety of processing methods. By far, the most common feedstock in the U.S. is corn; in other countries, such as Brazil, sugarcane is the primary feedstock. In the corn process, the starch is extracted from the feedstock and then hydrolyzed to sugar where microorganisms (*e.g.*, yeast) ferment it into ethanol. Ethanol is produced from corn through the wet or dry mill process. The primary production method in the U.S. is dry milling. About 75 percent of ethanol is produced using dry milling (Renewable Fuels Association 2005). The ethanol from corn (and sorghum) process is fully commercialized. At the end of 2005, the U.S. fuel ethanol capacity was over 4 billion gallons from approximately 100 plants located primarily in the Midwest. Most of the plants process corn or sorghum, but there are several small facilities that process wastes, such as beer and cheese whey.

Several organizations (including DOE) are working at developing ethanol from biomass such as energy crops (*e.g.*, switchgrass), agricultural residues (*e.g.*, corn stover) and forestry wastes. There are no commercial biomass-to-ethanol (cellulosic) facilities currently in

operation in the United States. However, DOE has a significant research and development effort in the production of ethanol from biomass. The U.S. Department of Agriculture (USDA) and DOE are also jointly working on developing the technologies for energy crop development.

The DOE program has outlined a detailed plan for developing a cost-effective technology by 2012, based on achieving an ethanol selling price of $1.07/gallon from feedstocks costing $35/dry ton. The plan does not analyze whether the target price of $1.07/gallon is economically feasible, but instead identifies the technological advancements and economic conditions necessary to yield the target price at which ethanol is cost-competitive. In addition, the program is evaluating or developing integrated bio-refineries that would produce ethanol both biologically and thermochemically through gasification. Finally, DOE and USDA are jointly working on technologies to drive down the cost of biomass from roughly $50/dry ton today to $30-$35/dry ton in 2012.

Significant amounts of ethanol use are projected in both the EIA and the DOE Program Development Cases. In the reference case of the 2006 AEO, it is estimated that almost 7 billion gallons of ethanol are produced in 2010 with just over 16 billion gallons being produced in 2030. The Program Development Case has much higher projections, with 10.7 billion gallons in 2010 and over 60 billion gallons in 2030.

c. Biodiesel

Biodiesel (methyl esters) is produced from biomass oils and fats such as soybean oil, waste grease and palm oil. The oils or fats are reacted with an alcohol, usually methanol, in the presence of a catalyst. Both acidic and basic-catalysts are used, but most processes use base catalysis by NaOH. Conversions of over 97 percent are common. In addition to biodiesel, this process produces glycerin, a mix of glycerol (1,2,3-propanetriol), water, and salts. The production of biodiesel is a fully commercialized process, however, there is considerable ongoing industrial development directed at improving the efficiency of the process technology. The primary ongoing government research efforts in this area are in the areas of air emissions, compatibility with advanced engines, and development of additional products from glycerin, as well as USDA's continued efforts to increase corn yields.

Biodiesel use in the transportation sector was 75 million gallons in 2005, a tripling of the 2004 levels. This growth is expected to continue. Projections of the maximum biodiesel production were made for the near-, mid- (2015) and longer-term (2030), in a 2004 report published by the National Renewable Energy Laboratory (Biomass Oil Analysis: Research Needs and Recommendations, National Renewable Energy Laboratory, document NREL/TP–510–34796, June 2004). In the near-term, if all biomass oils currently exported were converted to biodiesel, over 1.6 billion gallons of biodiesel would be available. In 2015, it is estimated that 3.5 billion gallons of biodiesel could be produced by improving oil seed yields and using Conservation Reserve Program (CRP) lands. In addition, 133 million gallons of biodiesel could be produced from waste fats and oils, bringing the total to 3.6 billion gallons of biodiesel. In the longer-term (*i.e.*, 2030), the projected maximum potential biodiesel almost triples over 2015 levels to 10 billion gallons. According to the report, production of 10 billion gallons of biodiesel could be produced by 2030, assuming:

- A 25 percent improvement in oil crop yield (4 billion gallons);
- All wheat exports were displaced, freeing up 30 million acres (3.1 billion gallons) for production of canola or other high oil yield crops; and
- Convert some fraction of soybean production to canola production (3.1 billion gallons).

The AEO 2006 provides much lower estimates for biodiesel. In the reference case, 190 million gallons of biodiesel are used in 2010, rising to 340 million gallons in 2030.

d. Coal-to-Liquid (CTL) Fuels

Coal is the most abundant fossil fuel resource in the U.S. with recoverable reserves estimated in 2005 at 267 billion tons. The recoverable resource base provides approximately 250-year supply at today's usage rates. The technology to produce CTL synthetic fuels has been available for years, and the industry continues to make incremental technological advances. Although the cost of production of CTL is less than today's oil prices, there are other major barriers to the use of coal to produce liquid fuels: Uncertainty of world oil prices; high cost of production coupled with high initial capital cost, and the long decision-to-production lead times. The threshold (or hurdle) price of crude oil that is required to trigger large capital investments is higher than what would otherwise be the case without these market risks and barriers to entry and therefore could be higher than the current cost of production. Depending on the processes used, production facilities can produce synthetic gasoline or diesel fuels. CTL plants commonly employ the Fischer-Tropsch process.[5] CTL fuels are clean, refined products requiring little if any additional refinery processing, are fungible with petroleum products and, therefore, can use the existing fuels distribution and end-use infrastructure, an attribute that is not present in the case of most other replacement or alternative fuels. (See testimony of Lowell Miller of DOE Fossil Energy before the Senate Energy and Natural Resources Committee on April 24, 2006, *http://fossil.energy.gov/news/testimony/2006/060424-C._Lowell_Miller_Testimony.html* and "Development of Coal-to-Liquid Fuels" DOE report to Congress, June 2006.)

DOE's current research priorities do not include funding for improving the processes used to make CTL fuels because the technology is mature with evolutionary advances and incremental improvements and therefore, Federal sponsorship of CTL technologies is not consistent with the Research and Development Investment Criteria. According to the AEO 2006, "CTL is economically competitive at an oil price in the low to mid-$40 per barrel range and a coal cost in the range of $1 to $2 per million BTU, depending on coal quantity and location." The AEO 2006 projects significant amounts of CTL fuels will be produced in the next several decades, with the first production plants coming online as early as 2011. A significant amount of the petroleum replacement provided in each of the scenarios reviewed results from the contribution by CTL.

In the AEO 2006 Reference Case, CTL replaces 0.76 million barrels of oil per day in 2030. In the AEO 2006 High Price Case, CTL replaces 1.69 million barrels of oil per day in 2030. Thus, CTL fuels have the potential to replace between 4–11 percent of total motor fuel, although a significant portion might ultimately be used as jet fuel. It is anticipated that some portion of the fuel produced from CTL processes will be used outside the

[5] The Fischer-tropsch was invented by F. Fishcer and H. Tropsch in Germany in 1923 for "* * * coal liquefaction, based on the catalytic conversion of synthesis gas (*i.e.*, a mixture of hydrogen and carbon monoxide) into a mainly liquid and some gaseous hydrocarbones.l The hydrocarbons make from the synthesis gas are mainly paraffins and olefins and are more easily refined into gasoline and diesel fuel. In addition to hydrocarbons, some oxygenated compounds, such as methanol, and produced from the synthesis gas." Energy Deskbook, U.S. Department of Energy, Document No. DOE/IR/05114–1, June 1982.

transportation sector, although it is currently unclear how much. Therefore, the analysis supporting the replacement fuel goal set in today's notice and the figures presented here currently assume 100 percent contribution in the motor fuels market. (This issue was specifically taken into account when adjusting total replacement fuel levels in setting the proposed goal in section VI, below.) As better production data is developed on stream of such plants, DOE may review the goal accordingly. However, most if not all of the production stream from such plants is expected to replace petroleum even if it is not directly used in on-road applications and, therefore, CTL will have a positive contribution to reducing oil use. In EIA's forecast, CTL surpasses all other alternative transportation fuels in terms of potential use.

e. Gas-to-Liquid (GTL) Fuels

Like CTL, GTL fuels are expected to contribute to transportation motor fuel supply in the future. GTL fuels are produced by converting natural gas reserves into synthetic petroleum fuels also using the Fischer-Tropsch process. The primary product of this process, accounting for 40–70 percent of the total yield, is a synthetic distillate or diesel fuel that has zero sulfur, and is fully fungible and compatible with existing liquid fuels and can be introduced into the current petroleum infrastructure and supply system. The production of GTL fuels currently is not economic in the U.S. due to high natural gas prices, and its use is only expected to be cost-effective using stranded natural gas as a feedstock. Stranded natural gas reserves are those that would otherwise be abandoned because they cannot be transported economically. Because of these factors, GTL provides far less petroleum replacement potential than CTL and only becomes a factor in the AEO forecast if oil reaches the levels forecast in the high price case.

AEO 2006 states that GTL fuels are profitable when oil prices exceed $25 a barrel and natural gas prices are $0.50–$1.00 per million BTU. The AEO 2006 reference forecast projects domestic natural gas prices to range from about $5 to $6 per million cubic feet range (a thousand cubic feet is roughly equivalent to a million BTU) over the next 25 years. Given this price range, the only viable natural gas that can be used to produce GTL fuel is stranded natural gas. According to the AEO, all of the GTL forecasted to be used is produced using stranded natural gas reserves located in Alaska. Once converted to GTL, the stranded Alaskan reserves could then be shipped via the Trans Alaskan Pipeline System for incorporation into more conventional fuel transportation and distribution methods. The AEO 2006 reference case indicates that GTL has the potential to replace 0.19 million barrels of oil per day in the high oil case. DOE's Fossil Energy input includes similar levels of petroleum replacement for GTL, but also includes GTL as viable in the reference case if certain technology goals are realized.

DOE has conducted R&D to improve and refine the processes used to produce GTL fuels, but no longer conducts this R&D because GTL is a mature technology with incremental progress driven by market forces. Current promising private sector efforts involve novel technology approaches that have the potential to reduce the capital cost to produce synthesis gas by over 25 percent, and also reduce the size of production facilities so that modest-sized natural gas fields can be exploited. Thus, DOE projects a slightly higher replacement level from GTL fuels than provided in EIA's forecast. Fossil Energy's program projects that GTL could replace 0.20 million barrels per day by 2030, slightly more than the AEO 2006 high oil price case. Moreover, the Fossil program projects that GTL is viable in the reference case and that GTL could replace up to 0.15 million barrels per day by 2030 even with lower oil prices.

Another important factor to consider is the potential for importing GTL from foreign sources. EIA currently projects that in 2030 worldwide GTL production will exceed 1.1 million barrels per day in its reference case and 2.6 million barrels per day in the high oil price case. Some of this production could be imported to the U.S. to offset petroleum demand. However, the replacement fuel goal proposed in this notice does not take into account these potential imports, and therefore likely understates the total potential for GTL fuels to offset petroleum demand.

f. Hydrogen

Hydrogen is the third most abundant element on the earth's surface, found primarily in water and organic compounds, but requires very energy intensive processes to isolate the Hydrogen in a form that can be used for fuel. It can be produced from sources such as natural gas, coal, gasoline, methanol, or biomass through the application of heat; from bacteria or algae; through photosynthesis; or by using electricity or sunlight to split water into hydrogen and oxygen. Because it is abundant, can be produced from a variety of sources, and burns cleanly or can be converted to electricity with little or no emissions, it has been looked to as a potential replacement for petroleum.

DOE has an extensive R&D program focused on commercializing hydrogen as a motor fuel for transportation. To realize the vision of the President's Hydrogen Fuel Initiative, DOE's Hydrogen Program supports R&D of transportation, stationary and portable hydrogen fuel cell technologies in parallel with technologies for hydrogen production and delivery infrastructure. The program is partnering with automotive and energy companies to make the technology ready by 2015, thereby enabling the availability of safe, affordable, and viable hydrogen fuel cell vehicles and hydrogen fuel infrastructure to consumers by 2020. The current focus is on addressing key technical challenges (for fuel cells and hydrogen production, delivery, and storage) and institutional barriers (such as hydrogen codes and standards to maximize safety, and training and public awareness). Once technical and cost targets are close to being met and the business case is established, policies and programs with incentives may be warranted to facilitate the transition.

The Hydrogen Program is currently conducting basic and applied research, technology development and learning demonstrations, underlying safety research, systems analysis, and public outreach and education activities. These activities include cost-shared, public-private partnerships to address the high-risk, critical technology barriers preventing widespread use of hydrogen as an energy carrier. Public and private partners include automotive and power equipment manufacturers, energy and chemical companies, electric and natural gas utilities, building designers, standards development organizations, other Federal agencies, State government agencies, universities, national laboratories and other national and international stakeholder organizations. The Hydrogen Program encourages the formation of collaborative partnerships to conduct R&D and other activities that support program goals.

DOE is funding R&D efforts that will provide the basis for the near-, mid-, and long-term production, delivery, storage, and use of hydrogen derived from diverse energy sources, including fossil fuel, nuclear energy, and renewable sources. Distributed reforming of natural gas, coal-derived liquids, and renewable liquid fuels (*e.g.*, ethanol and methanol) is likely to be the most efficient and economical way to produce hydrogen in the transition to

large scale introduction of hydrogen fuel, but costs are still too high.

The replacement fuel levels projected for hydrogen in this notice are based on the GPRA analysis conducted for the Hydrogen Program for fiscal year 2007. According to the GPRA analysis, the Hydrogen Program assumes that all of the hydrogen produced in 2025 comes from natural gas reforming with coal conversion to hydrogen not taking place until 2030. See GPRA (Mid-Term Benefits Analysis of EERE's Programs) p. 2–8. The AEO 2006 reference case indicates that hydrogen could replace several thousand barrels per day by 2030. The program development case established by the Hydrogen Program indicates a much more aggressive level of petroleum replacement at nearly a half a million barrels per day by 2030. DOE acknowledges that reaching this higher level may require the adoption of additional policy initiatives or incentives to ease the transition to hydrogen fueled fuel cell vehicles.

g. Other Alternative Fuels

In the reference case, the "other alternative fuels" consist of natural gas, liquefied petroleum gas, electricity, and methanol. Currently, natural gas and liquefied propane are the two most common alternative transportation fuels used (whereas ethanol is used primarily as an oxygenate and in low level blends such as gasohol.) They are primarily used in fleets because they require special vehicles and infrastructure. Currently, these fuels account for only one-fifth of the replacement fuels used in the U.S. and less than half a percent of petroleum motor fuel use. These fuels (with the exception of electricity derived from plug-in electric vehicles) are not treated separately in the program development cases discussed elsewhere in this notice because their use is not projected to increase significantly during the period reviewed, and DOE does not have any active R&D initiatives underway to significantly increase the use of these fuels in the future.

DOE, however, has some regulatory requirements and demonstration programs that include the use of these fuels, but DOE believes the contributions resulting from these programs are largely represented in the AEO reference case. Although small, the contribution from these fuels is expected to double in the reference case, and their contribution is reflected in the replacement fuel level proposed in section VI. These other alternative fuels replace 0.12 million barrels of oil per day in the reference case and 0.11 million barrels per day in the high price case. Their percentage of use is reduced in the high price case because higher energy prices lead to additional fuel efficiency and less overall fuel consumption.

h. Technologies and Programs Not Considered in This Analysis

Electricity in Plug-in Hybrid-Electric Vehicles (PHEV)

A relatively new but promising technology, PHEVs are attracting significant interest within the government and private industry. The Administration's Advanced Energy Initiative identifies PHEVs as one of the critical new technologies needed to offset petroleum fuel use. Like currently-available hybrid electric vehicles (HEVs), plug-in hybrids are very fuel efficient and can refuel using conventional fuels but have the added advantage of being able to plug-in to the electric grid. PHEVs which are currently being considered would have a driving range in electric-only mode of 20–40 miles. This capability gives the necessary driving range to satisfy most commuter trips and therefore could offset a significant amount of petroleum motor fuel if utilized by a large segment of the consumer market.

To bring this technology to market, the Advanced Energy Initiative includes new research to develop advanced battery technologies such as lithium-ion batteries, and advanced electric drive technologies. These steps are necessary to provide the range and utility that consumers demand. Simply adding more of the batteries used in currently-available hybrid vehicles is not practical because of the cost and weight of current batteries. DOE already has had much success in the area of battery development, having developed the nickel metal hydride batteries currently used by all commercially-available HEVs. Another advantage of PHEV is that they represent a practical step toward hydrogen fuel cell vehicles, because they will use some of the same electric drive and power-management systems that PHEVs will use.

The savings from operating vehicles on electricity could be significant. The Electric Power Research Institute (EPRI) believes the fuel efficiency of plug-in hybrids could exceed 80 or more miles per gallon, particularly in urban driving conditions. Because vehicles are driven mostly during the day for commuter trips, plug-in hybrids can be recharged at night using off-peak electric generation capacity. This means that a significant number of plug-in hybrids could be phased-in without requiring any new power plants. And because very little generation is supplied by petroleum, almost all the electricity supplied to these vehicles would offset petroleum use. EPRI estimates that the national average price of operating a PHEV on electricity is the equivalent of 75 cents per gallon. EPRI also estimates that because half the cars on U.S. roads are driven less than 24 miles per day, that PHEVs could reduce petroleum motor fuel consumption by 60 percent. As new, more fuel-efficient power plants are developed, PHEVs would be expected to become more energy efficient. However, the Department can not at this time verify EPRI's projections.

At this time, the specific technology baseline/configuration projected for PHEVs is still being developed. When combined with the relatively recent development of this technology concept, this means that there are no comprehensive estimates for potential replacement fuel contributions from this technology. DOE currently is partnering with industry to develop several initial configurations for evaluation and analysis, but concludes it is premature to include any specific contributions from PHEVs in the replacement fuel goal.

Other Federal Programs

In addition to the programs discussed above, there are numerous other Federal programs encouraging replacement fuel production; *e.g.*, the direct loan, loan guarantee, and grant programs for the purchase of renewable energy systems and energy efficiency improvements administered by the USDA under sec. 9006 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171). Such programs combine public and private contributions aimed at conserving and diversifying the Nation's energy supply, including motor vehicle fuels. The Department has not been able to quantify the impacts of such programs, but fully anticipates that the programs will have a positive impact on increasing the production capacity of replacement fuels in the timeframe of the proposed goal. The Department requests comment on the possible contributions from other Federal programs, other government activities and private sector initiatives in achieving the proposed goal.

C. Replacement Fuel Scenarios

The previous section discussed the building blocks reviewed by the Department. This section combines the various building blocks into separate and distinct scenarios. Four scenarios were considered: (1) The reference case projected by EIA in AEO 2006; (2) the high price scenario presented in AEO

2006; (3) a combination of the AEO 2006 reference case with achievement of program goals (designated as Program Developments); and (4) a combination of the AEO 2006 high price case with Program Developments. The different scenarios represent the potential bounds for proposing a revised replacement fuel production goal under sections 502 and 504 of EPAct 1992. The analysis performed looked at values for replacement fuel penetrations in the 2020, 2025, and 2030 timeframes.

1. Reference Case

As discussed earlier, the reference case represents the base case, or the most conservative approach to projecting potential replacement fuel production. The total projected replacement fuel production level by the year 2030 is approximately 8.65 percent in this scenario. This level of petroleum replacement further assumes that all CTL fuel is used for transportation purposes. Aside from this assumption, the most noticeable difference between this scenario and the ones that include the program development case is the relatively low amount of biofuels that is projected to be used. (This is due to assumptions made about technological progress of ethanol production technologies in the program development case.) Results for this scenario are provided in Figure 1.

FIGURE 1.—SUMMARY OF RESULTS FOR REFERENCE CASE SCENARIO

[Note: Results in mbpd unless otherwise noted]

Reference	2020	2025	2030
On-Road Fuel Use[6]	14.42	15.36	16.46
Additional Fuel Efficiency Savings (FCVT)	0.00	0.00	0.00
On-Road Fuel Use w/Additional Fuel Efficiency Savings	14.42	15.36	16.46
Ethanol	0.490	0.510	0.514
Biodiesel	0.02	0.02	0.02
Hydrogen/FCVs	0.001	0.001	0.002
Coal to Liquids	0.23	0.58	0.76
Gas to Liquids	0.00	0.00	0.00
Other Alternative Fuels	0.10	0.11	0.12
Petroleum Use	13.58	14.14	15.03
Total Replacement Fuel	0.84	1.22	1.42
Portion Replacement Fuel	5.83%	7.95%	8.65%

2. High Price Case

The high price case, which predicts higher oil prices throughout the forecast, indicates a potential for replacement fuel production level that is double that in the reference case. By 2030, replacement fuel production potentially accounts for 2.65 million petroleum equivalent barrels per day, providing a replacement fuel production level of 17.84 percent. The most notable changes in this forecast are the reduction in total on-road fuel consumption, dropping from 16.46 to 14.86 million barrels a day as a result of reduced demand, and the significant increase in potential CTL production, which increases from a level of 0.76 million barrels a day in the reference case to 1.69 million barrels a day in the high price case. Results for this scenario are provided in Figure 2.

FIGURE 2.—SUMMARY OF RESULTS FOR HIGH PRICE CASE SCENARIO

[Note: Results in mbpd unless otherwise noted]

High price	2020	2025	2030
On-Road Fuel Use	13.20	13.97	14.86
Additional Fuel Efficiency Savings (FCVT)	0.00	0.00	0.00
On-Road Fuel Use w/Additional Fuel Efficiency Savings	13.20	13.97	14.86
Ethanol	0.537	0.600	0.622
Biodiesel	0.0280	0.03	0.03
Hydrogen/FCVs	0.001	0.001	0.002
Coal to Liquids	0.29	0.81	1.69
Gas to Liquids	0.04	0.19	0.19
Other Alternative Fuels	0.088	0.10	0.11
Petroleum Use	12.21	12.24	12.21
Total Replacement Fuel	0.99	1.73	2.65
Portion Replacement Fuel	7.49%	12.37%	17.84%

3. Reference Case With Program Developments

This scenario combined the reference case assumptions regarding transportation energy demand with projections for successful DOE R&D programs. As in the reference case discussed above, this case assumes that all the CTL production capacity forecasted in the reference case is used for transportation purposes. The reference case with program developments further assumes additional fuel efficiency savings over

[6] On all summary results tables, the AEO 2006 cases have some fuel efficiency savings built into the forecasts, as a result of gradual improvements in vehicle technologies. The fuel efficency savings reflected in the line below in each table represnt those additional savings due to FCVT program developments.

and above those included in the reference case based on the fuel efficiency improvements and change in vehicle penetration rates attributed to the R&D initiatives underway within FCVT. Each of the other program initiatives discussed in this notice are factored into this scenario so that estimates for replacement fuel production potential of GTL, ethanol, biodiesel, and hydrogen are included. The potential impact of combining these forecasts with the individual program goals results in a replacement fuel production level potential of 35.25 percent in 2030. The most significant differences from the two previous forecasts (reference and high price stand-alone) are the incorporation of additional fuel economy improvements and that biofuels (ethanol and biodiesel) provide very large potential petroleum replacement, accounting for roughly two-thirds of the total replacement fuel in this scenario. The additional fuel efficiency improvements represent over 3 mbpd savings by 2030. The two biofuels also combine to replace more than 3.0 mbpd equivalent in this scenario. Results for this scenario are provided in Figure 3.

FIGURE 3.—SUMMARY OF RESULTS FOR REFERENCE CASE WITH PROGRAM DEVELOPMENT SCENARIO

[Note: Results in mbpd unless otherwise noted]

Reference/program goals	2020	2025	2030
On-Road Fuel Use	14.42	15.36	16.46
Additional Fuel Efficiency Savings (FCVT)	0.55	1.11	3.04
On-Road Fuel Use w/Additional Fuel Efficiency Savings	13.88	14.25	13.42
Ethanol	1.326	1.953	2.581
Biodiesel	0.366	0.51	0.65
Hydrogen/FCVs	0.001	0.16	0.47
Coal to Liquids	0.23	0.58	0.76
Gas to Liquids	0.05	0.15	0.15
Other Alternative Fuels	0.10	0.11	0.12
Petroleum Use	11.81	10.79	8.64
Total Replacement Fuel	2.07	3.46	4.73
Portion Replacement Fuel	14.94%	24.27%	35.25%

4. High Price Case With Program Developments

This scenario looked at the impact of the high price case assumptions regarding transportation energy demand combined with the Program Developments. It includes the same assumptions regarding CTL use as discussed above. The program goal assumptions regarding potential replacement fuels or petroleum reductions are the same as used in the previous scenario. The major difference in this scenario is that CTL production more than doubles due to higher oil prices. Ethanol and biodiesel again demonstrate the potential to replace a significant amount of petroleum. The higher oil prices, however, have the effect of reducing overall on-road fuel use, which magnifies the potential replacement fuel levels. The result in this scenario is a maximum potential replacement fuel level of 47.06 percent. Results for this scenario are provided in Figure 4.

FIGURE 4.—SUMMARY OF RESULTS FOR HIGH PRICE CASE WITH PROGRAM DEVELOPMENT SCENARIO

[Note: Results in mbpd unless otherwise noted]

High price/program goals	2020	2025	2030
On-Road Fuel Use	13.20	13.97	14.86
Additional Fuel Efficiency Savings (FCVT)	0.50	1.01	2.74
On-Road Fuel Use w/Additional Fuel Efficiency Savings	12.70	12.96	12.12
Ethanol	1.326	1.953	2.58
Biodiesel	0.37	0.506	0.645
Hydrogen/FCVs	0.001	0.16	0.47
Coal to Liquids	0.29	0.81	1.69
Gas to Liquids	0.05	0.15	0.20
Other Alternative Fuels	0.088	0.10	0.11
Petroleum Use	10.58	9.28	6.41
Total Replacement Fuel	2.12	3.68	5.70
Portion Replacement Fuel	16.71%	28.40%	47.06%

D. DOE's VISION Model Analysis

To validate the results of its analysis, DOE used the VISION model to look at the replacement fuel production levels suggested by the different scenarios considered. The Replacement Fuel Goal is a production capability goal. The purpose of the VISION Modeling exercise was to verify the replacement fuel production levels were reasonable given various potential vehicle mixes and fuel availability.

The VISION model, developed by DOE and Argonne National Laboratory, is used regularly by the Department to support programmatic decision-making in the area of transportation technologies. VISION has been used for such activities as responding to Congressional inquiries, projecting the oil reduction potential of advanced vehicle technologies, estimating fuel efficiency improvements required to save specific amounts of petroleum, and other similar tasks. VISION has a number of capabilities including the ability to project light- and heavy-vehicle stock, vehicle miles traveled (VMT), and energy consumption by technology and fuel types. It can also

assess market penetration rates necessary to achieve certain objectives, such as carbon reductions or petroleum reductions. In addition, as with the AEO, VISION specifically addresses any "rebound" effects within transportation, such as where increased VMT may result from lower operating costs due to efficiency improvements. (For more information on VISION, *see http://www.transportation.anl.gov/software/VISION/index.html*).

The VISION model was used in this case to review the inputs assumed in the different scenarios and verify the petroleum reduction savings, as well as the vehicle mix necessary to use some of the fuels. In particular, DOE was interested in whether sufficient light- and heavy-duty vehicles, in particular flexible fueled and diesel-powered vehicles would be available to use the mix of replacement fuels evaluated. The VISION run provided information on the market penetration of flexible fueled and diesel-powered vehicles that would be needed to use the quantities of ethanol, biodiesel, and synthetic diesel fuels (*i.e.*, CTL fuels). Overall, the VISION Reference Case scenario shows slightly higher numbers for diesel and hybrid electric vehicles than the EIA baseline. Under the VISION runs, there are significant differences between the Reference Case scenario and the Reference Case with Program Developments scenario concerning projected penetrations of FFVs, diesel vehicles, hybrid electric vehicles, and fuel cell vehicles. This is as would be expected due to the number of FFVs required to use the amount of ethanol projected by the Biomass Program to be available in 2030, the number of diesels and HEVs to demonstrate the petroleum savings due to fuel efficiency as projected by FCVT, the number of diesels needed to use the levels projected of diesel replacement fuels (biodiesel, GTL, CTL), and the number of FCVs required to use the hydrogen projected by HFCIT. Overall, advanced technology vehicles overall levels projected by VISION may require additional mechanisms to be achieved. *See* below Figure 5 showing the projections for new sales for all highway vehicles in 2030.

FIGURE 5.—VISION MODEL COMPARISON OF 2030 VEHICLE SALES MIX

New LDV sales 2030	EIA reference (percent)	VISION model, reference case (percent)	VISION model, reference case with program developments (percent)
Conventional Fueled	80.0	74.74	0.06
FFVs	6.3	6.16	23.83
Diesel	6.3	9.24	22.43
CNG, EV *et al.*	1.2	1.26	1.26
HEVs	6.1	8.59	37.43
FCVs	0.0	0.04	15.00

In particular, the VISION model was used to evaluate the replacement fuel levels projected by DOE in the different scenarios. The results matched very closely with those found by DOE and in most cases VISION suggested slightly higher replacement fuel levels. Some small differences occurred due to differences in assumptions about overall petroleum consumption, efficiency gains, and heating values for fuels. Figure 6 shows the comparison of results for the two of the scenarios under the 2030 analysis, the reference case and the reference case with program development scenarios.

FIGURE 6.—COMPARISON OF ANALYSIS AND VISION RESULTS FOR 2030

Fuel/technology	Reference case scenario analysis (mmbd)	Reference case scenario VISION (mmbd)	Reference case with program development scenario analysis (mmbd)	Reference case with program development scenario VISION (mmbd)
Ethanol	0.514	0.53	2.58	2.65
Biodiesel	0.02	0.02	0.65	0.60
Hydrogen	0.002	0	0.47	0.37
Coal-to-Liquids	0.76	0.76	0.76	0.76
Gas-to-Liquids	0	0	0.15	0.20
Other Alternative Fuels	0.12	0.16	0.12	0.16
Plug-in Hybrid Electric Vehicles	0	0	0	0
Total Replacement Fuel Contribution	1.42	1.48	4.73	4.75

F. Other Issues

1. Domestic Content

Section 502(b)(2) of EPAct 1992 directs that of the replacement fuels counted in the goal, at least half must be domestic replacement fuels (42 U.S.C. 13252(b)(2)). This is not an issue for today's action because nearly all of the replacement fuels analyzed are domestic in nature. The only replacement fuels analyzed that showed potential for being imported are gas-to-liquids, which represent a relatively small contribution to the overall goals. In addition, the small amount of GTL fuels included in the analysis was assumed to be based solely upon domestic resources. Ethanol imports are also assumed to be small; none is anticipated to be imported once cellulosic ethanol enters the market. All biodiesel, coal-to-liquid fuels, and hydrogen are assumed to be domestic. A

few of the other alternative fuels may be imported, but again, they represent a very small portion of the overall replacement fuel contributions. Thus, the overwhelming majority of the replacement fuels included in the analyses are domestic in nature.

2. Greenhouse Gases

As part of its analysis of the replacement fuel levels considered in this notice, DOE evaluated the overall greenhouse gas implications of the various scenarios. This analysis was included for several reasons. First, the Department felt such an analysis was needed to do a complete job of addressing the major issues surrounding the goal. Virtually all discussions of energy in contexts similar to this action have addressed greenhouse gas implications, including those within Congress. Second, section 502(a) specifically identifies "reducing greenhouse gas emissions" as one of the overall goals of the replacement fuel program (42 U.S.C. 13252(a)).

All scenarios show reduced carbon emissions over the reference case. Carbon emissions are reduced because more fuel efficient vehicles are used in these scenarios and the replacement fuels in general are less carbon intensive than petroleum motor fuels. The exception is the greenhouse gas emissions associated with CTL fuels if sequestration is not used to capture the carbon during fuel production. EIA indicates that there are currently no plans to sequester the carbon associated with CTL production absent new policies or requirements. Therefore, the Department has not assumed that such emissions will be sequestered. Even with the increased emissions of GHG from CTL, the net effect of the replacement fuel production goal proposed in today's notice is a substantial reduction in greenhouse gas emissions.

The VISION model was used to project the life cycle greenhouse gas emissions of the scenarios analyzed in this rulemaking. Since the greenhouse gas emissions are dependent upon the mix of replacement fuels produced (including the specific feedstocks used) and used and this actual mix cannot be completely determined at this time, the estimated greenhouse gas emissions are based on the projected fuel composition for 2030. On a life-cycle basis, the goal will achieve a reduction in greenhouse gas emissions of over 40 percent compared to the reference case. The annual emissions will decrease from 846.5 million metric tons of carbon equivalent (MMTCe) from fuel mix represented by the AEO 2006 reference case scenario, to just under 500 MMTCe from the fuel mix represented by the fuel mix that most closely represents the AEO 2006 reference case with program development scenario. This reduction is primarily due to the high utilization of biofuels, which have significantly lower carbon emissions than petroleum-based fuels, especially when derived from biomass. As noted earlier, the exact carbon emissions cannot be pinpointed as the mix of fuels may ultimately be different than that projected; however, it is clear that significant reductions should be expected to occur.

VI. New Replacement Fuel Production Goal Proposal

A. Discussion of Proposed Goal of 30 Percent by 2030

In summarizing the analyses provided above, it appears that a new replacement fuel goal in the range of just under 9 percent up to over 47 percent may be achievable in the 2030 timeframe. This wide range of potential replacement fuel production capacity percentages required the Department to carefully revisit the scenario assumptions to determine if a more specific goal level could be proposed.

The first scenario (Reference Case) results in less than 9 percent replacement fuel. For purposes of this rulemaking, the Department believes it is conservative because it assumes relatively low oil prices and no additional replacement fuel resulting from Program Developments. Therefore the Department proposes to reject this scenario for further consideration because it reflects what the Department believes is an unlikely combination of events. The second scenario (High Price Case) results in about 18 percent replacement fuel. The Department believes this result, though still conservative because it too assumes no Program Development contributions, is more likely than the first scenario. Even if its higher oil prices do not materialize, it is likely that at least some Program Development will make up the difference.

The remaining other two scenarios (Reference Case with Program Developments and High Price Case with Program Developments), range in contribution from over 35 to about 47 percent. The Departments believes the fourth scenario, High Price Case with Program Developments, may be overly optimistic because it assumes an unlikely combination of events (*i.e.*, high oil prices and that all programs will meet their expected goals). Therefore, the Department believes it cannot reasonably conclude, at the present time, that the higher percentage level is "achievable" in 2030 within the current statutory requirements. In addition, there was a specific assumption for CTL (namely that all CTL fuels would be supplied to the transportation sector) which also cautions for discounting the results to more reasonably achievable levels.

The third scenario, which also incorporates the Program Developments but assumes Reference Case oil prices, would result in just over 35 percent replacement. Though more optimistic than the second scenario in terms of the Program Development contribution, it is less optimistic than fourth scenario in terms of oil prices.

The range in between the second and third scenarios is approximately 18 to 35 percent. Based on the discussion above, the Department believes at this time that this represents a reasonable range for the modified replacement fuel goal. The Department strongly believes that many of the programs will achieve their individual technical goals. Therefore the Department selected a proposed goal a few points above the mid-point of this range, 30 percent. The Department proposes to determine that a goal of 30 percent replacement fuel by 2030 is "achievable" within the meaning of EPAct 1992 section 504.

The Department believes this goal is "achievable" for the following reasons. First, the proposed goal incorporates a portfolio of different technologies. Some of these would be expected to ultimately provide greater contributions, while others might provide lesser contributions. On average, however, these variations would be expected to balance each other out, leaving a goal still in this range. Also, the Department is relying on the most recent fuel price projections from EIA, which it considers to be the most reliable long-range projections. However, it is possible that events that cannot be predicted may have short-term and long-term impacts that could increase fuel prices above the projections. This has been illustrated with recent increases in fuel prices due to natural disasters and other global events. Thus, it is entirely possible that contributions from some of the replacement fuels could turn out to be higher than have been included here, if petroleum prices end up significantly higher as currently being experienced.

Furthermore, much of the replacement fuel contribution is anticipated to come from fuels capable of being blended in with conventional petroleum fuels (*e.g.* biofuels) or which are fungible with conventional fuels (CTL, GTL). Thus, infrastructure obstacles to much of the projected

replacement are expected to be minimized. Finally, this analysis has primarily focused on domestic replacement fuels, thus excluding imports. The requirement in section 502(b)(2) was that at least half of the replacement needed to be by domestic motor fuels (42 U.S.C. 13252(b)(2)); however, the Department has shown scenarios where imports of replacement fuels would probably not be required in order to achieve the desired levels.

Electricity for plug-in hybrid-electric vehicles has not been included in the estimates, due to the early development stage of the technology, and the absence of credible estimates. Depending on the success of this technology, there could be significant additional contributions to reducing overall petroleum consumption through PHEV efficiency improvements, plus additional replacement of petroleum with electricity.

Therefore, the Department is proposing to extend the replacement fuel production goal of 30 percent of U.S. motor fuels to 2030. While this appears achievable for a number of reasons, including those above, there are several additional reasons why the Department believes this is the appropriate approach to take. First, when Congress passed EPAct 1992, it indicated that it believed the level of 30 percent replacement fuel was appropriate. Current discussions within Congress are also focusing toward this level using a similar time frame to the one proposed here. (*See* S. 2025, H.R. 4409, S. 2747, and others.) Second, this level of replacement fuel production and timeframe are both consistent with the goals of the President's Advanced Energy Initiative, announced in early 2006, which also incorporates a portfolio of technologies to address our Nation's transportation energy situation.

There are important reasons why a time frame extending out to 2030 is required to make major changes in motor fuel consumption patterns and thus production levels—the lead-time for investments to begin and bear fruit, and the retirement cycles for U.S. vehicles. Major investments of capital are required to alter the U.S. supply of transportation fuels. Because these investments are focused over the entire operating life of a production facility (often 30 years), potential investors need to have a high degree of certainty that their investment will pay off through confidence that the cost of competing fuels will be higher than the cost of fuels produced by the subject plant far into the future.

Once the capital is raised, the plant must be built and reach full operation, which can also easily take five years or more, depending on the complexity and size of the production plant involved. When adding a substantial number of new plants (such as cellulosic ethanol and coal-to-liquid fuels) to meet the 30 percent replacement fuel goal, this phase of constructing multiple plants and bringing them up to full operating capacity could easily add five or even ten years to the date of seeing major impacts on motor fuel consumption. Thus, it can easily be 20 years from the date of initial investments until significant market penetrations are seen.

Many of the investments anticipated in 1992 have only recently begun. Recent high oil prices are beginning to spur more investment in alternative and replacement fuels, but not fast enough to allow the Department to set a 2010 replacement fuel production goal at levels any higher than the AEO 2006 (~3 percent).

Although the replacement fuel goal is production based, production is closely linked to consumption. On the vehicle side, a similar period of lead-time is typically required to make a significant impact on U.S. fuel consumption patterns. This is because it takes more than 25 years to turn over the U.S. fleet of in-use vehicles. According to the 25th Edition of the Transportation Energy Data Book (TEDB 25, U.S. DOE and Oak Ridge National Laboratory, ORNL–6974, 2006), after 30 years, approximately 93 percent of the 1990 model year vehicles are projected to be retired, and slightly less than 96 percent of the 1990 model year light trucks will have been scrapped. The median lifetime for 1990 cars is now 16.9 years, and 15.5 years for 1990 light trucks. While the truck numbers are relatively consistent (compared to 1970 and 1980 model years), the car numbers have increased substantially (from 11.5 years in 1970 and 12.5 years in 1980).

The effects of this can be seen by a U.S. vehicle population of 226 million in 2003, with annual new light-duty vehicle sales of approximately 16.5–17 million/year (or approximately equal to 7 percent of the size of the in-use fleet). Thus, any replacement fuel or higher efficiency technology which requires actual replacement of vehicles must be phased into the U.S. fleet of vehicles over a number of years to eventually account for a significant portion of in-use vehicles. (*See* TEDB, Tables 3.8, 3.9, 4.5, 4.6, and 8.1.) In summary, due to both lead-times for investments and the time required to turn over nearly all of the U.S. fleet of vehicles, a significant change in the utilization of U.S. motor fuel consumption patterns could easily take two decades.

The Department wishes to remind all interested parties that not all of the factors influencing the likelihood of achieving this goal are in the Department's control. Nor are they easy to predict more than 20 years into the future. The level of replacement fuel that actually materializes could be substantially lower or higher than 30 percent due to unforeseen and/or uncontrollable events, not the least of which could be oil prices substantially higher of lower than currently anticipated.

B. Relevance to the President's Advanced Energy Initiative

The President's initiative establishes a number of targets that are relevant to the replacement fuel goal proposed in this notice. In the area of biofuels, the initiative specifically calls for accelerating research for cellulosic ethanol so that it is practical and cost-effective by 2012. The ability to produce cellulosic ethanol at a price that is competitive with conventional fuels is a critical step in ensuring sufficient supplies of replacement fuels to offset future growth in transportation motor fuels use. The replacement fuel production goal of 30 percent in 2030 proposed in this notice assumes large quantities of cellulosic ethanol will be produced. The initiative also continues the Administration's hydrogen fuel initiative by funding research and development to make hydrogen a viable transportation fuel.

The initiative also seeks to offset the growth in transportation motor fuel demand through efforts to develop a variety of more fuel-efficient light-, medium-, and heavy-duty vehicles. The fuel efficiency effort includes work underway within DOE's FCVT Program through the FreedomCAR and Fuel Partnership and the 21st Century Truck Partnership. A central focus of these efforts is to accelerate the introduction of high efficiency technologies such as PHEVs and advanced battery-powered HEVs. Improvements made in these areas will not only help offset petroleum motor fuels in the short and mid-term, but will pave the way for fuel efficient fuel cell vehicles in the longer term. As highlighted elsewhere in this notice, fuel efficiency improvements indirectly contribute to the achievement of the replacement fuel goal contained in EPAct 1992 by increasing the percentage of petroleum replacement provided by a given amount of replacement fuel.

C. Future Analyses

The Department also intends to continue to review the replacement fuel production goal, as necessary, under the

Replacement Fuel Program established under section 502(a) of EPAct 1992. As such, should any future review indicate that the replacement fuel production goal, as modified, is not achievable, the Department will again institute a rulemaking process to modify the goal to ensure that it is consistent with the provisions of EPAct 1992.

VII. Opportunity for Public Comment

A. Participation in Rulemaking

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments with respect to the subject set forth in this notice and the proposals made by DOE. All parties are encouraged to provide analysis, data or other supporting documentation to support their comments as appropriate. The Department encourages the maximum level of public participation possible in this proceeding. Individual consumers, representatives of consumer groups, manufacturers, associations, coalitions, States or other government entities, and others are encouraged to submit written comments on the proposal. DOE also encourages interested persons to participate in the public hearing announced at the beginning of this notice. Whenever applicable, full supporting rationale, data and detailed analyses should also be submitted.

B. Written Comment Procedures

Comments on this Notice may be submitted to the Department through electronic or hardcopy means. DOE would appreciate an electronic copy of the comments to the extent possible. Electronic copies should be e-mailed to *regulatory_info@afdc.nrel.gov*, or may be submitted through the Federal eRulemaking Portal at *http://www.regulations.gov*. DOE is currently using Microsoft Word. If written (hardcopy) comments are submitted, eight copies must be provided. The outside of the envelope, and the comments themselves, must be marked with the designation (Alternative Fuel Transportation Program: Replacement Fuel Goal, NOPR, RIN 1904–AB67) and must be received by the date specified at the beginning of this notice. In the event any person wishing to submit written comments cannot provide eight copies, alternative arrangements can be made in advance by calling Mr. Dana O'Hara at (202) 586–9171.

All comments received on or before the date specified at the beginning of this notice of proposed rulemaking and other relevant information will be considered by DOE before final action is taken on the proposal. All comments submitted will be made available in the electronic docket set up for this rulemaking. This docket will be available on the worldwide Web at the following address: *http://www.eere.energy.gov/vehiclesandfuels/epact/private_fleets.shtml*. Pursuant to the provisions of 10 CFR 1004.1, anyone submitting information or data that he or she believes to be confidential and exempt by law from public disclosure should submit one complete copy of the document, as well as seven (7) copies, if possible, from which the information has been deleted. DOE will make a determination as to the confidentiality of the information and treat it accordingly.

C. Public Hearing Procedures

The time and place of the public hearing are set forth at the beginning of this notice. DOE invites any person who has an interest in this proceeding, or who is a representative of a group or class of persons that has an interest, to make a request for an opportunity to make an oral presentation at the hearing. Requests to speak should be sent to the address or phone number indicated in the **ADDRESSES** section of this notice and should be received by the time specified in the **DATES** section of this notice.

The person making the request should briefly describe his or her interest in the proceeding and, if appropriate, state why that person is a proper representative of the group or class of persons that has such an interest. The person also should provide a phone number where he or she may be reached during the day. Each person selected to speak at the public hearing will be notified as to the approximate time that he or she will be speaking. A person wishing to speak should bring ten copies of his or her statement to the hearing. In the event any person wishing to speak at the hearing cannot meet this requirement, alternative arrangements can be made in advance by calling Mr. Dana O'Hara, at (202) 586–9171.

DOE reserves the right to select persons to be heard at the hearing, to schedule their presentations, and to establish procedures governing the conduct of the hearing. The length of each presentation will be limited to ten minutes, or based on the number of persons requesting to speak.

A DOE official will be designated to preside at the hearing. The hearing will not be a judicial or an evidentiary-type hearing, but will be conducted in accordance with 5 U.S.C. 553 and section 501 of the Department of Energy Organization Act. (42 U.S.C. 7191) At the conclusion of all initial oral statements, each person may, if time allows, be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the Presiding Officer at the hearing. If DOE must cancel the hearing, DOE will make every effort to publish an advance notice of such cancellation in the **Federal Register**. Notice of cancellation will also be given to all persons scheduled to speak at the hearing. The hearing may be canceled in the event no public testimony has been scheduled in advance.

VIII. Regulatory Review

A. Review Under Executive Order 12866

This proposed regulatory action has been determined to be a "significant regulatory action" under Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (October 4, 1993). Accordingly, this action was subject to review under the Executive Order by the Office of Information and Regulatory Affairs in the Office of Management and Budget.

B. Review Under Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, requires preparation of a regulatory flexibility analysis for any rule that is likely to have a significant economic impact on a substantial number of small entities. Today's action merely proposes a modified replacement fuel goal, with no requirements imposed upon any parties. Therefore, this action would not result in compliance costs on small entities. Therefore, DOE certifies that today's proposed action will not have a significant economic impact on a substantial number of small entities, and accordingly, no initial regulatory flexibility analysis has been prepared.

C. Review Under the Paperwork Reduction Act

No new recordkeeping requirements, subject to the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*, would be imposed by today's regulatory action.

D. Review Under the National Environmental Policy Act (NEPA)

10 CFR 1021.102(b) applies the requirements of the National Environmental Policy Act to "any DOE action affecting the quality of the environment of the United States, its territories or possessions." Today's

action, however, is solely the proposal of a modified replacement fuel goal, and not the imposition of any affirmative duty upon any party. Therefore, no impact on the quality of the environment flows from today's action, and thus the Department is not required to conduct an analysis under NEPA.

The Department did conduct an initial greenhouse gas analysis utilizing the VISION model, to determine the relative impact between the proposed goal scenario (AEO 2006 reference case plus program goals) and the baseline case (AEO 2006 reference case). This analysis can be found in section V.F. 2 above.

E. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, Civil Justice Reform, 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by sections 3(a) and 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. Executive Order 12988 does not apply to this rulemaking notice because DOE is merely proposing to modify the replacement fuel goal provided in section 502(b)(2) of EPAct 1992, and is not proposing any regulations that would impose any requirements on any parties.

F. Review Under Executive Order 13132

Executive Order 13132, Federalism, 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have implications of Federalism. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. DOE has examined today's proposed modification of the replacement fuel goal and has determined that it would not preempt State law and would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

G. Review of Impact on State Governments—Economic Impact on States

Section 1(b)(9) of Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (September 30, 1993), established the following principle for agencies to follow in rulemakings: "Wherever feasible, agencies shall seek views of appropriate State, local, and tribal officials before imposing regulatory requirements that might significantly or uniquely affect those governmental entities. Each agency shall assess the effects of Federal regulations on State, local, and tribal governments, including specifically the availability of resources to carry out those mandates, and seek to minimize those burdens that uniquely or significantly affect such governmental entities, consistent with achieving regulatory objectives. In addition, agencies shall seek to harmonize Federal regulatory actions with regulated State, local and tribal regulatory and other governmental functions."

Because DOE is merely proposing to modify the replacement fuel goal under section 502(b)(2) of EPAct 1992, no significant impacts upon State and local governments are anticipated. The position of State fleets currently covered under the existing EPAct 1992 fleet program is unchanged by this action.

H. Review of Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995, Public Law 104–4, requires each Federal agency to assess the effects of Federal regulatory actions on State, local and tribal governments and the private sector. The Act also requires a Federal agency to develop an effective process to permit timely input by elected officials on a proposed "significant intergovernmental mandate," and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published in the **Federal Register** a statement of policy on its process for intergovernmental consultation under the Act (62 FR 12820). The notice of proposed rulemaking published today does not propose or contain any Federal mandate, so the requirements of the Unfunded Mandates Reform Act do not apply.

I. Review of Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule that may affect family well-being. Today's notice of proposed rulemaking would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

J. Review of Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by the Office of Management and Budget (OMB). OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's notice under the OMB and DOE guidelines, and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13175

Under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, 65 FR 67249 (November 9, 2000), DOE is required to consult with Indian tribal officials in development of regulatory policies that have tribal implications. Today's notice would not have such implications. Accordingly, Executive Order 13175 does not apply to this notice.

L. Review Under Executive Order 13211

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy, Supply,

Distribution, or Use, 66 FR 28355 (May 22, 2001) requires preparation and submission to OMB of a Statement of Energy Effects for significant regulatory actions under Executive Order 12866 that are likely to have a significant adverse effect on the supply, distribution, or use of energy. A mere modification to the replacement fuel goal under EPAct 1992 section 502(b)(2) does not require fleets, suppliers of energy, or distributors of energy to do or to refrain from doing anything. Consequently, DOE has concluded there is no need for a Statement of Energy Effects.

IX. Approval by the Office of the Secretary

The issuance of the proposed rule for the replacement fuel goal modification has been approved by the Office of the Secretary.

Issued in Washington, DC, on September 6, 2006.

Alexander A. Karsner,

Assistant Secretary, Energy Efficiency and Renewable Energy.

List of Subjects in 10 CFR Part 490

Administrative practice and procedure, Energy conservation, Fuel economy, Gasoline, Motor vehicles, Natural gas, Penalties, Petroleum, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Department of Energy is proposing to amend Chapter II of title 10 of the Code of Federal Regulations as set forth below:

PART 490—ALTERNATIVE FUEL TRANSPORTATION PROGRAM

1. The authority citation for part 490 is revised to read as follows:

Authority: 42 U.S.C. 7191 *et seq.*; 42 U.S.C. 13201, 13211, 13220, 13251 *et seq.*

2. In § 490.1 of subpart A, paragraph (b) is revised to read as follows:

§ 490.1 Purpose and Scope.

* * * * *

(b) The provisions of this subpart cover:

(1) The definitions applicable throughout this part;

(2) Procedures to obtain an interpretive ruling and to petition for a generally applicable rule to amend this part; and

(3) The goal of the replacement fuel supply and demand program established under section 502(a) of the Act (42 U.S.C. 13252(a)).

3. Subpart A is amended by adding § 490.8 to read as follows:

§ 490.8 Replacement fuel production goal.

The goal of the replacement fuel supply and demand program established by section 502(b)(2) of the Act (42 U.S.C. 13252(b)(2)) and revised by DOE pursuant to section 504(b) of the Act (42 U.S.C. 13254(b)) is to achieve a production capacity of replacement fuels sufficient to replace, on an energy equivalent basis, at least 30 percent of motor fuel consumption in the United States by the year 2030.

[FR Doc. E6–15516 Filed 9–18–06; 8:45 am]

BILLING CODE 6450–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

RIN 3038–AC34

Financial Reporting Requirements for Introducing Brokers

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission" or "CFTC") is proposing to amend Commission regulations to require introducing brokers ("IBs") submitting CFTC financial Forms 1–FR–IB that are certified by independent public accountants to file such financial reports electronically with the National Futures Association ("NFA"). The proposed amendments also would require that certified Financial and Operational Combined Uniform Single Reports ("FOCUS" Reports), submitted by IBs registered with the Securities and Exchange Commission ("SEC") as securities brokers or dealers ("B/Ds") in lieu of Form 1–FR–IB, be filed either electronically or in paper form in accordance with the rules of the NFA. The CFTC also is proposing to amend Commission regulations to require that with respect to any such electronic filing, a paper copy including the original signed certification be maintained by the IB in its records for a period of five years in accordance with Commission Regulation 1.31.

DATES: Comments must be received on or before October 19, 2006.

ADDRESSES: You may submit comments, identified by 3038–AC34, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: secretary@cftc.gov.* Include "Proposed Amendments to Rules 1.10 and 1.31" in the subject line of the message.
- *Fax:* (202) 418–5521.
- Mail: Send to Eileen Donovan, Acting Secretary of the Commission, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581.
- *Courier:* Same as Mail above.

All comments received will be posted without change to *http://www.cftc.gov*, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Thomas J. Smith, Deputy Director and Chief Accountant, at (202) 418–5430 or Jennifer C.P. Bauer, Special Counsel, at (202) 418–5472, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Electronic mail: (*tsmith@cftc.gov*) or (*jbauer@cftc.gov*).

SUPPLEMENTARY INFORMATION:

I. Background

Section 4f(b) of the Commodity Exchange Act ("Act") authorizes the Commission to adopt regulations imposing minimum financial requirements on IBs.[1] Commission Regulation 1.10(a)(2)(ii)(A)[2] requires each person filing an application for registration as an IB to file a financial Form 1–FR–IB[3] certified by an independent public accountant concurrently with the application. IBs that also are registered with the SEC as a B/D may file a FOCUS Report in lieu of a Form 1–FR–IB. The application for registration, and the certified Form 1–FR–IB or FOCUS Report, must be filed with the National Futures Association ("NFA") in paper form.[4]

Regulation 1.10(b)(2)(ii)(A) requires each registered IB to annually file a certified Form 1–FR–IB as of the close of the IB's fiscal year with NFA. IBs that are registered with the SEC as B/Ds may file an annual FOCUS Report with NFA in lieu of the Form 1–FR–IB. Regulation 1.10(b)(2)(iii) requires that certified Forms 1–FR–IB, or FOCUS Reports, must be filed in paper form with NFA and may not be filed electronically. Regulation 1.10(d)(4) requires that

[1] 7 U.S.C. 6f(b).

[2] The regulations of the Commission cited in this release may be found at 17 CFR Ch. I (2006).

[3] The Form 1–FR–IB is a financial report that includes a statement of financial condition, a statement of income or loss, a statement of minimum net capital, and appropriate footnote disclosures.

[4] NFA is a registered futures association under Section 17 of the Commodity Exchange Act, 7 U.S.C. 21, and has been delegated responsibility for processing the Commission's registration function. NFA also is a self-regulatory organization, as defined in Regulation 1.3(ee).

Forms 1–FR–IB, or FOCUS reports filed in lieu thereof, be accompanied by an oath or affirmation from specified persons that the information in the filing is true and correct.

The Commission previously has approved rules submitted by NFA that require IBs to submit uncertified Forms 1–FR–IB, or FOCUS Reports, electronically using the NFA EasyFile electronic filing system.[5] NFA implemented electronic filing of the uncertified Form 1–FR for IBs beginning in 2002 by providing them with the WinJammer software utilized by other self-regulatory organizations and the Commission for the Forms 1–FR and FOCUS Reports filed electronically by futures commission merchants ("FCMs"). The EasyFile system was developed by NFA as a Web-based alternative to WinJammer using the same security procedure available under NFA's On-line Registration System, or ORS.[6]

Based partly on the successful implementation of EasyFile for uncertified filings on Form 1–FR–IB, NFA petitioned the Commission for rule amendments in 2005 to enable NFA to implement mandatory electronic filing of commodity pool certified annual reports using the same Web-based structure as the EasyFile system, which amendments were adopted by the Commission and became effective in March 2006.[7] As a result of these amendments and NFA's rules, currently all certified commodity pool annual reports must be received by NFA in electronic files in Portable Document Format (".pdf format").

NFA's current petition to amend Commission regulations would permit NFA to expand the EasyFile electronic 1–FR–IB submissions of IBs to include the mandatory filing of certified Form 1–FR–IBs through an electronic file in the same .pdf format. However, NFA has not requested the amendment of regulations to require mandatory electronic filing of certified FOCUS Reports from IBs that are SEC registered B/Ds as NFA currently does not have the systems capability through WinJammer to accept .pdf files. However, as NFA has indicated that it will develop a mechanism to receive certified FOCUS Reports from IBs electronically in the future, the amendments proposed herein provide that such reports are required to be submitted in accordance with NFA rules, either electronically in .pdf format or in paper form.

NFA's electronic filing system for certified financial statements from IBs would require the IB to submit a PDF file version of the entire certified statement, including the financial information, footnotes, auditors' statement, and any necessary reconciliation of the IB's certified financial statement and most recent unaudited 1–FR. Because the IB would have already entered the detailed figures from the unaudited Form 1–FR–IB into the system, the IB would not have to enter the figures from the certified statement unless that statement includes a reconciliation. If it does not include a reconciliation, the system would carry over the figures from the uncertified statement for NFA staff's use in analyzing the certified statement. When the IB submits the electronic filing, NFA's system prompts the submitter to read and to indicate agreement to an electronic oath or affirmation. The submitter will have already securely accessed NFA's system through the input of a personal identification number (PIN). This oath or affirmation is made with respect to the PDF file of the annual report and any information entered into the system from the certified statement, and is patterned after NFA's existing EasyFile system for IBs' unaudited financial reports. The IB's Security Manager can establish users and assign them abilities to enter data and/or submit the report and data in the NFA electronic filing system. However, only persons duly authorized to bind the IB in accordance with Rule 1.10(d)(4) may submit the data by entering a PIN and making the required oath or affirmation. The IB is responsible for ensuring that only persons who are duly authorized to bind the IB, in accordance with Rule 1.10(d)(4), are granted the ability to submit the IB's financial information to the NFA. The electronic version of the oath or affirmation will appear in dialog boxes when reports or data are submitted, and completion of the submission will require an affirmative acceptance of the oath or affirmation by a user who has accessed the system with a secure PIN number and has been granted permission to submit the IB's financial information.

II. Proposed Amendments

Regulation 1.10(b)(2)(iii) requires that a Form 1–FR certified by an independent public accountant which is filed by an FCM, IB or applicant for registration as an FCM or IB, must be filed in paper form and may not be filed electronically. The Commission is proposing to amend Regulation 1.10(b)(2)(iii) to provide that a certified Form 1–FR required from an IB, or applicant for IB registration, must be filed electronically with NFA through compliance with NFA's electronic filing procedures, and that a paper copy with the original, manually signed certification must be maintained by the IB in accordance with Regulation 1.31. The Commission is also proposing to amend Regulation 1.10(d)(4)(2)(ii), by revising the second sentence and redesignating the revised sentence as Regulation 1.10(d)(4)(2)(iii). As proposed, Regulation 1.10(d)(4)(2)(iii) would confirm that in the case of a Form 1–FR–IB filed via electronic transmission in accordance with NFA procedures approved by the Commission, such transmission must be accompanied by the personal identification number assigned under NFA procedures to the authorized signer, and such personal identification number will constitute and become a substitute for the manual signature of the authorized signer for the purpose of making the required oath or affirmation. In addition, the Commission is proposing to amend Regulation 1.10(h), to provide that an IB that is permitted to file a copy of its certified FOCUS Report in lieu of Form 1–FR, file such report either in paper form, or through compliance with NFA's electronic filing procedures, according to the rules of NFA. The proposed amendment to Regulation 1.10(h) also will require that a paper copy with the original, manually signed certification be maintained by the IB in accordance with Regulation 1.31 for any IB FOCUS Report electronically filed with NFA. Lastly, the Commission is proposing to amend Regulation 1.31(d) to provide that paper copies of electronically filed certified Forms 1–FR or FOCUS Reports must be retained by the IB in hard copy with the original manually signed certification. The Commission hereby requests comment on the foregoing amendments proposed to implement electronic filing of certified annual reports on Form 1–FR–IB with NFA, and to permit electronic filing by IBs of certified FOCUS reports as NFA may in the future require.

[5] By letter dated June 1, 2004, NFA submitted to the Commission for its review and approval, pursuant to Section 17(j) of the Act (7 U.S.C. 21(j)), amendments to Section 5 of NFA Financial Requirements, regarding IB financial requirements, which amendments were approved by the Commission on an expedited basis and were effective June 30, 2004.

[6] The firm's security manager can establish users and assign them abilities to enter data and/or submit the report in the NFA EasyFile system. This "Security Manager" procedure is part of NFA's existing electronic system for registration processing.

[7] 71 FR 8939 (Feb. 22, 2006).

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing regulations, consider the impact of those regulations on small businesses. The Commission previously has established certain definitions of "small entities" to be used by the Commission in evaluating the impact of its regulations on such entities in accordance with the RFA.[8] The proposed rule amendments will not place any additional burdens upon introducing brokers that are small businesses since all such parties are already subject to the financial reporting requirements under Regulation 1.10 and already comply with the electronic filing of uncertified reports through NFA's electronic filing system. Accordingly, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b) that the action proposed to be taken herein will not have a significant economic impact on a substantial number of small entities. However, the Commission invites the public to comment on this finding.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 ("PRA")[9] imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. The proposed rule amendments do not require a new collection of information on the part of any entities subject to the proposed rule amendments. The amendments being proposed would, if promulgated in final form, alter the method of collection of some of the information required for certain introducing brokers under Regulation 1.10.

Collection Of Information. (Regulations and Forms Pertaining to the Financial Integrity of the Marketplace, OMB Control Number 3038–0024.) Although the amendments, if promulgated in final form, would alter the method of collection of some of the information required in the above-referenced collection, the estimated burden associated with the collection is not expected to increase or decrease as a result. All such affected entities already must comply with and use NFA's electronic filing system, and the amendment would simply substitute electronic submission for the mailing of a paper filing. The paper filing would thereafter be required to be retained, but the retention of one certified financial report per year is not expected to increase the estimated recordkeeping burden under the collection. Accordingly, for purposes of the PRA, the Commission certifies that the proposed rule amendments, if promulgated in final form, would not impact the total annual reporting or recordkeeping burden associated with the above-referenced collection of information, which has been approved previously by OMB. Pursuant to the PRA, the Commission has submitted a copy of this section to the Office of Management and Budget ("OMB") for its review.

Copies of the information collection submission to OMB are available from the CFTC Clearance Officer, 1155 21st Street, NW., Washington, DC 20581 (202) 418–5160. The Commission considers comments by the public on this proposed collection of information in—

Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use; Evaluating the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; Enhancing the quality, utility, and clarity of the information to be collected; and

Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Organizations and individuals desiring to submit comments on the information collection should contact the Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Desk Officer of the Commodity Futures Commission. OMB is required to make a decision concerning the collection of information contained in these proposed Regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Commission on the proposed Regulations.

C. Cost-Benefit Analysis

Section 15(a) of the Act, as amended by Section 119 of the CFMA, requires the Commission to consider the costs and benefits of its action before issuing a new Regulation under the Act. By its terms, Section 15(a) as amended does not require the Commission to quantify the costs and benefits of a new Regulation or to determine whether the benefits of the Regulation outweigh its costs. Rather, Section 15(a) simply requires the Commission to "consider the costs and benefits" of its action.

Section 15(a) of the Act further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: Protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations. Accordingly, the Commission could in its discretion give greater weight to any one of the five enumerated areas and could in its discretion determine that, notwithstanding its costs, a particular regulation was necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

The proposed amendments to Regulation 1.10 and 1.31 would require IBs to electronically file certified Form 1–FR with NFA and would required IBs which file FOCUS Reports in lieu of Form 1–FR to file in paper form or electronically in accordance with the instruction of NFA, with any electronically filed certified reports required to be maintained by the IB in hard copy paper form with the original manually signed certification.

The Commission is considering the costs and benefits of this proposed regulation in light of the specific provisions of Section 15(a) of the Act, as follows:

1. *Protection of market participants and the public.* The proposed amendment should not affect the protection of market participants and the public as it provides an alternate method of delivery of information contained in certified annual reports of IBs but does not substantively alter the character of such information available to the Commission and NFA.

2. *Efficiency and competition.* The Commission anticipates that the proposed amendment will benefit efficiency by permitting NFA to streamline its process for receiving certified financial reports from IBs. The proposed amendment is considered by

[8] 47 FR 18618 (April 30, 1982).

[9] 44 U.S.C. 3507(d).

the Commission as benefiting efficiency and not impacting competition.

3. *Financial integrity of futures markets and price discovery.* The proposed amendment should have no effect, from the standpoint of imposing costs or creating benefits, on the financial integrity of futures markets or the price discovery function of such markets.

4. *Sound risk management practices.* The proposed amendment should have no effect, from the standpoint of imposing costs or creating benefits, on sound risk management practices.

5. *Other public interest considerations.* The Commission believes that the proposed regulation requiring electronic filing for the submission by IBs of certified Forms 1–FR, and the requirement that IBs filing certified FOCUS Reports comply with NFA instructions as to filing in paper form or electronically, is beneficial in that it should streamline the timeliness of delivery and electronic accessibility of such reports, and permit NFA to retain such reports in a more streamlined and accessible manner.

After considering these factors, the Commission has determined to propose the amendments discussed above. The Commission invites public comment on its application of the cost-benefit provision. Commenters also are invited to submit any data that they may have quantifying the costs and benefits of the proposal with their comment letters.

List of Subjects in 17 CFR Part 1

Brokers, Commodity futures, Reporting and recordkeeping requirements.

Accordingly, 17 CFR part 1 is proposed to be amended as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 1a, 2, 5, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a-1, 16, 16a, 19, 21, 23, and 24, as amended by the Commodity Futures Modernization Act of 2000, Appendix E of Pub. L. 106–554, 114 Stat. 2763 (2000).

2. Section 1.10 is proposed to be amended by:

a. Revising paragraph (b)(2)(iii);

b. Revising paragraph (d)(4)(ii);

c. Adding paragraph (d)(4)(iii); and

d. Revising paragraph (h), to read as follows:

§ 1.10 Financial reports of futures commission merchants and introducing brokers.

* * * * *

(b) * * *

(2) * * *

(iii) A Form 1–FR required to be certified by an independent public accountant in accordance with § 1.16 which is filed by a futures commission merchant or applicant for registration as a futures commission merchant must be filed in paper form and may not be filed electronically. A Form 1–FR required to be certified by an independent public accountant in accordance with § 1.16 which is filed by an introducing broker or applicant for registration as an introducing broker must be filed electronically in accordance with NFA's electronic filing procedures, and a paper copy of such filing with the original manually signed certification must be maintained by such introducing broker or applicant in accordance with § 1.31.

* * * * *

(d) * * *

(4) * * *

(ii) If the registrant or applicant is registered with the Securities and Exchange Commission as a securities broker or dealer, the representative authorized under § 240.17a–5 of this title to file for the securities broker or dealer its Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II, Part IIA, or Part II CSE.

(iii) In the case of a Form 1–FR filed via electronic transmission in accordance with procedures established or approved by the Commission, such transmission must be accompanied by the Personal Identification Number assigned under such procedures to the authorized signer, and such Personal Identification Number will constitute and become a substitute for the manual signature of the authorized signer for the purpose of making the oath or affirmation referred to in this paragraph.

* * * * *

(h) *Filing option available to a futures commission merchant or an introducing broker that is also a securities broker or dealer.* Any applicant or registrant which is registered with the Securities and Exchange Commission as a securities broker or dealer may comply with the requirements of this section by filing (in accordance with paragraphs (a), (b), (c), and (j) of this section) a copy of its Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II, Part IIA, or Part II CSE (FOCUS Report), in lieu of Form 1–FR; *Provided, however,* That all information which is required to be furnished on and submitted with Form 1–FR is provided with such FOCUS Report; and *Provided, further,* That a certified FOCUS Report filed by an introducing broker or applicant for registration as an introducing broker in lieu of a certified Form 1–FR–IB must be filed according to NFA rules, either in paper form or electronically in accordance with NFA electronic filing procedures, and if filed electronically, a paper copy of such filing with the original manually signed certification must be maintained by such introducing broker or applicant in accordance with § 1.31.

* * * * *

3. Section 1.31 is proposed to be amended by revising paragraph (d) to read as follows:

§ 1.31 Books and records; keeping and inspection.

* * * * *

(d) Trading cards, documents on which trade information is originally recorded in writing, written orders required to be kept pursuant to § 1.35(a), (a–1)(1), (a–1)(2) and (d), and paper copies of electronically filed certified Forms 1–FR and FOCUS Reports with the original manually signed certification must be retained in hard-copy for the required time period.

* * * * *

Issued in Washington, DC, on September 13, 2006 by the Commission.

Eileen Donovan,

Acting Secretary of the Commission.

[FR Doc. 06–7739 Filed 9–18–06; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[USCG–2006–25767; Formerly CGD09–06–123]

Safety Zones; U.S. Coast Guard Water Training Areas, Great Lakes

AGENCY: Coast Guard, DHS.

ACTION: Notice of public meetings.

SUMMARY: The Coast Guard will meet to discuss issues relating to the proposed permanent safety zones located in the Great Lakes to conduct live gunnery training exercises. The meetings will be open to the public.

DATES: The Coast Guard will hold four public meetings as follows: Monday, October 16, 2006 in Duluth MN; Wednesday October 18, in Grand

Haven, MI; Thursday, October 19, 2006, in Port Huron/Marysville, MI; Monday, October 23, in Cleveland, OH.

Comments and materials related to these public meetings must reach the Docket Management Facility on or before October 6, 2006. If you are unable to attend, you may submit comments to the Docket Management Facility by November 13, 2006.

ADDRESSES: You may submit your comments and related material by one of the following means:

(1) By mail to the Docket Management Facility (USCG–2006–2567), U.S. Department of Transportation, room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m. Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web site for the Docket Management System at *http://dms.dot.gov.*

The Docket Management Facility maintains the public docket for the rulemaking. Comments and material received from the public will become part of this docket and will be available for inspection or copying at room PL–401, located on the Plaza level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may electronically access the public docket on the internet at *http://dms.dot.gov.*

Electronic forms of all comments received into any of our dockets can be searched by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor unit, etc.) and is open to the public without restriction. You may review the Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov/.*

FOR FURTHER INFORMATION CONTACT: For further information concerning this notice and the public meeting, contact Commander Gustav Wulfkuhle, Chief Enforcement Branch, Ninth Coast Guard District, Cleveland, Ohio at (216) 902–6091. If you have any questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–493–0402.

SUPPLEMENTARY INFORMATION:

Public Meetings

The Coast Guard will hold four public meetings as follows: Monday, October 16, 2006 in Duluth MN; Wednesday October 18, in Grand Haven, MI; Thursday, October 19, 2006, in Port Huron/Marysville, MI; Monday, October 23, in Cleveland, OH. These meetings will be held to take comments regarding the proposed Safety Zones; U.S. Coast Guard Water Training Areas, Great Lakes, published on August 1, 2006, in the **Federal Register** at 71 FR 43402. Specific times, locations and additional information for the public meetings will be announced in a subsequent notice in the **Federal Register.**

The Coast Guard encourages interested persons to submit written data, views, or comments. Persons submitting comments should please include their name and address and identify the docket number (USCG–2006–25767). You may submit your comments and material by mail, hand delivery, fax or electronic means to the Docket Management Facility at the address under **ADDRESSES.**

Regulatory History

On August 1, 2006, the Coast Guard published a notice of proposed rulemaking (NPRM) (71 FR 43402) to establish permanent safety zones throughout the Great Lakes to conduct live fire gun exercises. The initial comment period for this NPRM ended on August 31, 2006. In response to public requests, the Coast Guard re-opened the comment period on this NPRM. (71 FR 53629, September 12, 2006) Re-opening the comment period from September 12, 2006 to November 13, 2006, provides the public more time to submit comments and recommendations.

Background and Propose

These safety zones are necessary to protect vessels and people from hazards associated with live fire gun exercises. Such hazards include projectiles that may ricochet and damage vessels and/or cause death or serious bodily harm. The thirty-four zones will be located throughout the Great Lakes in order to accommodate 57 separate Coast Guard units. The proposed safety zones are all located at least three nautical miles from the shoreline.

Procedural

The meetings are open to the public. Please note that the meetings may close early if all business is finished. If you are unable to attend, you may submit comments to the Docket Management Facility at the address under **ADDRESSES** by November 13, 2006.

Information on Services for Individuals With Disabilities

If you plan to attend the public meeting and require special assistance, such as sign language interpretation or other reasonable accommodations, please contact us as indicated in **FOR FURTHER INFORMATION CONTACT.**

Dated: September 14, 2006.

John E. Crowley, Jr.,

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

[FR Doc. 06–7783 Filed 9–15–06; 2:03 pm]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–8220–3]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete the Waverly Groundwater Contamination Site (Site) from the National Priorities List (NPL).

SUMMARY: The EPA, Region 7, is issuing a notice of intent to delete the Site located near Waverly, Nebraska, from the NPL and requests public comments on this notice of intent. The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found in Appendix B of 40 CFR part 300 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Nebraska through the Nebraska Department of Environmental Quality (NDEQ) have determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: Comments concerning this site must be received by October 19, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–1986–0005, by one of the following methods:

- *http://www.regulations.gov*— Follow the on-line instruction for submitting comments.
- *E-mail: hirter.fritz@epa.gov.*
- *Fax:* 913–551–9130
- *Mail:* Mr. Fritz Hirter, Community Involvement Coordinator, U.S. EPA,

Region 7, 901 N 5th Street, Kansas City, Kansas 66101.

- *Hand Delivery:* 901 N 5th Street, Kansas City, Kansas.

Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–SFUND–1986–0005. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information disclosure of which is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the EPA's Region 7 Superfund Records Center, 901 N 5th Street, Kansas City, Kansas 66101, and the Waverly City Hall, Lancashire Street, Waverly, Nebraska 68462–1131. Region 7's Docket Facility is open from 8 a.m. to 4 p.m. by appointment, Monday through Friday, excluding legal holidays. The EPA Docket telephone number is 913–551–7166. The Waverly City Hall is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays, or by appointment. The Waverly City Hall telephone number is 402–786–2312.

FOR FURTHER INFORMATION CONTACT: Mr. Fritz Hirter, Community Involvement Coordinator (CIC), U.S. Environmental Protection Agency, Region 7, 901 N 5th Street, Kansas City, Kansas 66101, telephone number: 1–800–223–0425 or (913) 551–7130; fax number: 913–551–9130; e-mail address: *hirter.fritz@epa.gov*.

SUPPLEMENTARY INFORMATION: In the "Rules and Regulations" Section of today's **Federal Register**, EPA is publishing a direct final notice of deletion of the Site without prior notice of intent to delete because EPA views this as a noncontroversial revision and anticipates no adverse comment. The EPA has explained our reasons for this deletion in the preamble to the direct final deletion. If the EPA receives no adverse comment(s) on the direct final notice of deletion, the EPA will take no further action on this notice of intent to delete. If EPA receives adverse comment(s), EPA will withdraw the direct final notice of deletion and it will not take effect. The EPA will, as appropriate, address all public comments in a subsequent final deletion notice based on this notice of intent to delete. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For additional information, see the direct final notice of deletion which is located in the Rules section of this **Federal Register**.

Dated: September 7, 2006.

William W. Rice,

Acting Regional Administrator, Region 7.

[FR Doc. E6–15337 Filed 9–18–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 21 and 22

Migratory Bird Permits; Draft Environmental Assessment on Take of Raptors From the Wild for Falconry and Raptor Propagation; Extension of Public Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; extension of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (the Service), are extending the comment for the draft Environmental Assessment (DEA) on take of raptors from the wild for falconry and for captive propagation. Comments on the DEA previously submitted need not be resubmitted, because they have been incorporated into the public record and will be fully considered in the revisions of the DEA.

DATES: The public comment period is extended to November 21, 2006. Any comments received after the closing date may not be considered in the final guidelines.

ADDRESSES: You may pick up a copy of the DEA at, or hand-deliver your comments to the Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Mail Stop 4107, Arlington, Virginia 22203–1610. The DEA also is available on the Division of Migratory Bird Management Web site at *http://www.fws.gov/migratorybirds/*.

FOR FURTHER INFORMATION CONTACT: Dr. George T. Allen, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, at 703–358–1714.

SUPPLEMENTARY INFORMATION: We published a Notice of Availability of the DEA on June 21, 2006, with a 90-day comment period, set to end on September 19, 2006 (71 FR 35599). We received a request for a 60-day extension of the comment period from the Central Flyway Council (CFC), and are now extending the comment period as requested, to allow the CFC additional time to review the DEA.

Kenneth Stansell,

Acting Director, Fish and Wildlife Service.

[FR Doc. 06–7771 Filed 9–18–06; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 71, No. 181
Tuesday, September 19, 2006

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

Forest Service

Procedures for Calculating Annual Fees for Recreation Residences

AGENCY: Forest Service, USDA.

ACTION: Notice of Issuance of Agency Interim Directive.

SUMMARY: The Forest Service is issuing an Interim Directive to Forest Service Handbook (FSH) 2709.11—Special Uses to provide guidance to its employees for calculating annual fees for recreation residence term special use permits during the 2-year transition period following the adoption of the final rule, directives, and appraisal guidelines promulgated pursuant to the Cabin User Fee Fairness Act (Pub. L. 106–291).

DATES: This Interim Directive is effective September 19, 2006.

ADDRESSES: This Interim Directive (ID_2709.11–2006–1) is available electronically from the Forest Service via the World Wide Web/Internet at *http://www.fs.fed.us/im/directives.* Single paper copies of the amendment are also available by contacting Rita Staton, Lands Staff (Mail Stop 1124), Forest Service, 1400 Independence Avenue, SW., Washington, DC 20250–1124 (telephone 202–205–1390).

FOR FURTHER INFORMATION CONTACT: Rita Staton, Lands Staff (202–205–1390).

SUPPLEMENTARY INFORMATION: Forest Service Handbook (FSH) 2709.11, Chapter 30 was revised in April 2006, to reflect changes in determining cabin user fees for recreation residences. The April revision reflects the provisions of the Cabin User Fee Fairness Act of 2000, and was adopted after notice and comment in the **Federal Register** on April 3, 2006 (71 FR 16614).

The Interim Directive revises two paragraphs to provide specific beginning and ending dates to verbiage referencing the 2-year transition period, which began on May 3, 2006 and continues until May 2, 2008. The Interim Directive adds direction for calculating recreation residence fees during the 2-year transition period and adds three exhibits to display sample recreation residence fee calculations.

Dated: September 7, 2006.

Dale N. Bosworth,

Chief.

[FR Doc. E6–15500 Filed 9–18–06; 8:45 am]

BILLING CODE 3410–11–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: Wednesday, September 13, 2006, 9–9:30 a.m., 2–4 p.m.

PLACE: Cohen Building, Room 3321, 330 Independence Ave., SW., Washington, DC 20237.

CLOSED MEETING: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b(c)(9)(B)). In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b(c)(2) and (6)).

FOR FURTHER INFORMATION CONTACT: Persons interested in obtaining more information should contact Carol Booker at (202) 203–4545.

Dated: September 13, 2006.

Carol Booker,

Legal Counsel.

[FR Doc. 06–7779 Filed 9–15–06; 12:01 pm]

BILLING CODE 8230–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Status of Investigation Into Charges of Violations of Administrative Protective Orders in Antidumping and Countervailing Duty Proceedings

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

EFFECTIVE DATE: September 19, 2006.

SUMMARY: In recent months, the International Trade Administration has completed a number of investigations into charges that the terms of administrative protective orders issued in connection with antidumping and countervailing duty proceedings have been violated. The results of these investigations are summarized below.

FOR FURTHER INFORMATION CONTACT: John McInerney, Chief Counsel for Import Administration, (202) 482–1434.

SUPPLEMENTARY INFORMATION: The International Trade Administration of the Department of Commerce (ITA) wishes to remind those members of the bar who appear before it in antidumping or countervailing duty proceedings of the extreme importance of protecting the confidentiality of business proprietary information obtained pursuant to an administrative protective order (APO) during the course of those proceedings. In order that the gravity with which ITA views violations of its APOs might be better appreciated, ITA is publishing the following report on fifteen recent findings that the provisions of ITA APOs have been violated. ITA is also publishing the following report of two recent findings that there was no reasonable cause to believe that the terms of an APO had been violated.

With respect to the investigations where ITA determined that the terms of an APO had been violated, five of the investigations consisted of cases where counsel filed a public version of a document and failed to redact business proprietary information originally submitted by another party.

In four of the investigations, documents containing business proprietary information were erroneously served on law firms not subject to the respective APOs. The

documents were either returned or destroyed without being reviewed.

In one investigation, an employee of a law firm directed another employee to fax a document containing the business proprietary information of a party to the proceeding to the law firm's client, who was not subject to the APO. Upon receiving the faxed document, the client recognized the error, called the law firm, and destroyed the document before reviewing it.

In two investigations involving the same set of facts, a law firm withdrew from representing a party, and transferred its files from that proceeding to another law firm. When the second law firm opened the files, it found two proprietary documents from two unrelated proceedings. The second law firm was not subject to the APO of either of those two proceedings, and returned the documents without copying them or further disseminating them.

In one investigation, one law firm inadvertently attached two pages containing proprietary information to a public letter, and served that letter on another law firm. The first law firm discovered its mistake, and informed ITA before the letter could be placed in the public files. The second law firm returned the letter without copying it or further disseminating it.

One investigation involved a law firm that had access to a document due to its involvement in ongoing litigation concerning an administrative review completed several years earlier. The terms of the APO in that review permitted an authorized applicant to use information submitted in that review in two successive segments of the same proceeding. An administrative review of the same proceeding was currently pending before ITA; however, it was beyond the two successive segments as specified in the APO. An attorney from that law firm called the attention of ITA officials to the document from the earlier review, and urged those officials to place the document on the record of the current administrative review. ITA concluded that although the attorney did not place the document on the record of the current review, by calling the attention of ITA officials to this document, the attorney had improperly used the document, in violation of the terms of the APO.

In the final investigation, an authorized applicant had access to the financial statement of a company due to its involvement in an administrative review in one proceeding. Due to a request by the submitting company, ITA conferred on this document business proprietary treatment. The authorized applicant, however, urged ITA officials to place this financial statement on the record of an administrative review of a second, separate proceeding involving the same company. Although the financial statement itself was a public document, because ITA agreed to treat it as business proprietary information, all authorized applicants were obligated likewise to treat it as business proprietary information until ITA had decided proprietary treatment was unwarranted. ITA concluded that referring to a document in one proceeding to which the authorized applicant had access due to its involvement in another proceeding was a violation of the APO because ITA was treating that document as proprietary in the second proceeding.

In all of the cases, ITA found that the APO violations were inadvertent and that no significant harm was caused to the submitter of the information.

In each of these cases, the individuals involved were cautioned to observe the terms of the APO and the Department's regulations, and warned that any future violations could be treated more severely.

ITA has also determined in two investigations that reasonable cause did not exist to believe that the terms of an APO had been violated. In one case, a law firm alleged that another law firm had released business proprietary information when the second law firm submitted a document making a legal argument. ITA has concluded that based on the facts of this case, the second law firm did not disclose any business proprietary information in making its legal argument.

In the second investigation, an attorney filed an application for APO access in both an antidumping duty and a countervailing duty investigation involving the same product from the same country. On the APO applications, the attorney represented that the client was an interested party because it was an importer of subject merchandise. It was later discovered that the importer did import subject merchandise, but not from the country subject to the two investigations. The attorney then withdrew, and certified to the destruction of all APO materials received in the two investigations.

A party to the two investigations alleged that making a false statement on the APO application was a violation of the APO. ITA investigated this allegation, and concluded that while the attorney confirmed that the client imported subject merchandise, the attorney did not think to confirm that the client imported that merchandise from the particular country in question, as the attorney represented the same client in three other investigations involving the same merchandise, but from different countries. Although the statements in the two APO applications at issue that the client was an interested party were false, the attorney made these statement out of mere inadvertence, and not due to a reckless disregard for the truth, or an intention to deceive. Based on the facts of this case the required mental state did not exist to justify sanctions. ITA further concluded that the investigation did not reveal any evidence that any of the information obtained by the attorney under the APOs had been improperly disclosed.

Serious harm can result from inadvertent or other disclosure of proprietary information obtained under APO. ITA will continue to investigate vigorously allegations that the provisions of APOs have not faithfully been observed, and is prepared to impose sanctions commensurate with the nature of the violations, including letters of reprimand, denial of access to proprietary information, or debarment from practice before the ITA.

This notice is published pursuant to 19 CFR 354.18 (2004).

Dated: August 7, 2006.

John D. McInerney,

Chief Counsel, Import Administration.

[FR Doc. E6–15552 Filed 9–18–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic From the People's Republic of China: Extension of Time Limits for the Preliminary Results of the 11th Administrative Review and New Shipper Reviews

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

DATES: *Effective Date:* September 19, 2006.

FOR FURTHER INFORMATION CONTACT: Alex Villanueva, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482–3208.

Background

On December 22, 2005, the Department published a notice of initiation of a review of fresh garlic from

the People's Republic of China ("PRC"), covering the period November 1, 2004, through October 31, 2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 70 FR 76024 (December 22, 2005). On December 28, 2005, the Department published a notice of initiation of new shipper reviews of fresh garlic from the PRC covering the period November 1, 2004, through October 31, 2005. *See Fresh Garlic from the People's Republic of China: Initiation of New Shipper Reviews,* 70 FR 76765 (December 28, 2005).

On April 28, 2006, the Department aligned the statutory time lines of the 11th administrative review and all but one of the new shipper reviews.[1] On June 14, 2006, the Department published a notice of an extension of time limits for the 11th administrative review and new shipper reviews. *See Fresh Garlic from the People's Republic of China: Extension of Time Limits for the Preliminary Results of the 11th Administrative Review and New Shipper Reviews,* 70 FR 34304 (June 14, 2006), which extended the deadline for the preliminary determination to October 2, 2006. On August 14, 2006, Qingdao Xintianfeng Foods Company Ltd. ("QXF"), whose new shipper review had not been aligned with the administrative review, agreed to waive the new shipper time limits.[2] On August 23, 2006, QXF submitted a letter stating that it agreed to the alignment of the new shipper review with the 11th administrative review and thus waiving the new shipper time limits. On August 14, 2006, the Department aligned the statutory time lines of the 11th administrative review with QXF's new shipper review.[3]

Extension of Time Limit of Preliminary Results

The Department determines that completion of the preliminary results of these reviews within the statutory time period is not practicable. The 11th administrative review covers nine companies, and to conduct the sales and factor analyses for each requires the Department to gather and analyze a significant amount of information pertaining to each company's sales practices and manufacturing methods. The five new shipper reviews, including that of QXF, involve extraordinarily complicated methodological issues such as the use of intermediate input methodology, potential affiliation issues and the examination of importer information. The Department requires additional time to analyze these issues.

Therefore, given the number and complexity of issues in this case, and in accordance with section 751(a)(3)(A) of the Act and section 351.214(j)(3) of the Department's regulations, we are extending the time period for issuing the preliminary results of the instant review by 45 days until November 16, 2006. The final results continue to be due 120 days after the publication of the preliminary results. This notice is published in accordance with section 751(a)(3)(A) of the Act.

Dated: September 11, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–15551 Filed 9–18–06; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See* the Department's letter to All Interested Parties, dated April 28, 2006.

[2] See the Department's letter to All Interested Parties, dated August 14, 2006, where the Department notes that QXF agreed to waive the new shipper time limits.

[3] Id.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–331–802]

Certain Frozen Warmwater Shrimp From Ecuador; Notice of Amended Initiation and Amended Partial Rescission of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: September 19, 2006.

FOR FURTHER INFORMATION CONTACT: David Goldberger or Gemal Brangman, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4136 and (202) 482–3773, respectively.

Background

On April 7, 2006, the Department of Commerce (the Department) published in the **Federal Register** its initiation of the antidumping duty administrative review of certain frozen warmwater shrimp from Ecuador for the period August 4, 2004, through January 31, 2006. *See Notice of Initiation of Administrative Reviews of the Antidumping Duty Orders on Certain Frozen Warmwater Shrimp from Brazil, Ecuador, India and Thailand,* 71 FR 17819 (April 7, 2006) (*Initiation Notice*). We initiated a review for Exporklore Exports & Representacion, based on a request for review from the petitioners, the Ad Hoc Shrimp Trade Action Committee. Exporklore, S.A. (Exporklore) also requested a review of its sales, but this company name was inadvertently omitted from the *Initiation Notice*. The Department subsequently confirmed that the correct name for Exporklore Exports & Representacion is Exporklore, S.A. To correct the omission of the company name Exporklore, S.A. from the *Initiation Notice,* we are now issuing this notice of amended initiation of the 2004–2006 antidumping duty administrative review of certain frozen warmwater shrimp from Ecuador as noted above. As a result of this correction, we are initiating the 2004–2006 administrative review with respect to Exporklore, S.A.

Although we are now amending our initiation notice to include Exporklore, S.A., the Department is not conducting a review of Exporklore's sales in this administrative review because on June 30, 2006, Exporklore filed a timely request for the withdrawal of its requested review. Because of this withdrawal request, on July 20, 2006, the Department published in the **Federal Register** its notice of partial rescission. *See Certain Frozen Warmwater Shrimp from Ecuador; Partial Rescission of Antidumping Duty Administrative Review,* 71 FR 41198 (July 20, 2006) (*Partial Rescission*). Our amended initiation notice does not supercede the prior rescission of Exporklore in the *Partial Rescission* notice issued on July 20, 2006.

On June 30, 2006, the petitioners withdrew their administrative review request with respect to Exporklore Exports & Representacion. However, we inadvertently omitted this company name from the *Partial Rescission.* Therefore, we are now issuing this notice of amended partial rescission of the 2004–2006 antidumping duty administrative review of certain frozen warmwater shrimp from Ecuador to rescind the 2004–2006 administrative review for Exporklore Exports & Representacion.

This amended initiation and partial rescission is issued and published in accordance with section 751 of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: September 13, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–15545 Filed 9–18–06; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Notice of Jointly Owned Invention Available for Licensing

AGENCY: National Institute of Standards and Technology, Commerce

SUMMARY: The invention listed below is jointly owned by the U.S. Government, as represented by the Department of Commerce, and the U.S. Navy. The Department of Commerce's interest in the invention is available for non-exclusive licensing, in accordance with 35 U.S.C. 207 and 37 CFR Part 404 to achieve expeditious commercialization of results of federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on this invention may be obtained by writing to: National Institute of Standards and Technology, Office of Technology Partnerships, Attn: Mary Clague, Building 820, Room 213, Gaithersburg, MD 20899. Information is also available via telephone: 301–975–4188, fax 301–869–2751, or e-mail: *mary.clague@nist.gov*. Any request for information should include the NIST Docket number or Patent number and title for the invention as indicated below.

The invention available for licensing is:

[Docket Number 05–009US]

Title: Method of Stabilization of Functional Nanoscale Pores for Device Applications.

Abstract: The invention comprises a structure comprising a membrane of a compound spanning an aperture. The compound comprises a hydrophilic head group, an aliphatic tail group, and a polymerizable or polymerized functional group.

The invention further comprises a method of forming a structure comprising: providing a solution of a compound and a chamber comprising a partition having an aperture; placing a quantity of an aqueous liquid into the chamber, such that the liquid does not cover any part of the aperture; placing the solution on the top surface of the liquid; and raising the solution to a point above the aperture to form a membrane of the compound across the aperture. The compound comprises a hydrophilic head group and an aliphatic tail group and comprises a polymerizable functional group in an organic solvent.

Dated: September 13, 2006.

James E. Hill,

Acting Deputy Director.

[FR Doc. E6–15543 Filed 9–18–06; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; North Atlantic Right Whale Economic Benefit Study: Pre-test Data Collection

AGENCY: National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before November 20, 2006.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Dr. Kathryn Bisack, National Marine Fisheries Service, Northeast Fisheries Science Center, 166 Water Street, Woods Hole, MA 02543; telephone: (508) 495–2324; or *Kathryn.Bisack@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Marine Fisheries Service (NMFS) plans to conduct a pilot survey with the objective of testing a survey instrument that will be used to collect data for measuring the preferences U.S. residents have among the available management options to protect the northern right whale (*Eubalena glacialis*), which is a listed species under the Endangered Species Act of 1973 (16 U.S.C. 35). NMFS is charged with protecting this species and has in the past and will continue to implement management actions to allow the species to recover (69 FR 53040). Because available management options have potentially different socioeconomic impacts, it is important to understand the public's attitudes towards potential impacts on northern right whales and the fishing and shipping industries. This information is currently not available, yet is an additional socioeconomic component critical for improvement of the planning and evaluation of effective protection measures for northern right whales.

The pilot instrument will present the latest information on northern right whales, current population levels, probabilities of extinction, alternative management options, and likely impacts of management options. The survey is expected to ask respondents for information regarding their knowledge and opinions on northern right whale conservation, and on the potential impacts of management options available to protect the species. Additional standard social-demographic information needed to classify respondents will also be obtained. The pilot pre-test will gather a sufficient number of responses to evaluate the information, presentation, reliability, internal consistency, response variability, and other properties of a newly developed survey. The results from these pre-test activities will be used to make improvements to the survey instrument.

A second **Federal Register** Notice will appear when the final survey is to be conducted. Ultimately, final survey results may provide information on the economic benefits of right whale protection. These results may supplement other materials to allow one to evaluate alternative protection measures. Such information may be used in an analysis to determine whether the benefits of stronger protection measures (i.e., right whale benefits) are commensurate with the costs.

II. Method of Collection

Two modes are being considered, mail and the Internet; however, we are more likely to use mail as the method of collection.

III. Data

OMB Number: None.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Individuals or households.

Estimated Number of Respondents: 200.

Estimated Time Per Response: 35 minutes.

Estimated Total Annual Burden Hours: 117.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 14, 2006.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E6–15546 Filed 9–18–06; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090706C]

Meeting of Atlantic Regional Fishery Management Council Chairs and Executive Directors

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

ACTION: Notice of public meeting.

SUMMARY: NMFS will host a half-day meeting with the Atlantic Regional Fishery Management Council Chairs and Executive Directors in October 2006. The intent of this meeting is to discuss science, coordination, and communication issues related to Atlantic Highly Migratory Species (HMS).

DATES: The meeting with the Atlantic Regional Fishery Management Council Chairs and Executive Directors will be held from 8:30 a.m. to 12 p.m. on Thursday, October 5, 2006.

ADDRESSES: The meetings will be held at the Hilton Mark Center, 5000 Seminary Road, Alexandria, VA 22311; phone: 703–845–1010.

FOR FURTHER INFORMATION CONTACT: Othel Freeman or Chris Rilling at 301–713–2347.

SUPPLEMENTARY INFORMATION: The meeting with the Atlantic CCED will focus on science, coordination, and communication issues between NMFS and the Atlantic Regional Fishery Management Councils (New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, and Caribbean Fishery Management Councils) regarding Atlantic HMS.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Othel Freeman or Chris Rilling at (301) 713–2347, at least 7 days prior to the meeting.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: September 13, 2006.

Alan D. Risenhoover,

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

[FR Doc. E6–15540 Filed 9–18–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091306C]

Western Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold a public meeting to gather public comments on options to research and manage shark viewing operations in federal waters around Hawaii.

DATES: The meeting will be held on Thursday October 5, 2006, from 6 p.m. to 9 p.m.

ADDRESSES: The meeting will be held at the Haleiwa Elementary School, 66–505 Haleiwa Rd., Haleiwa, HI 96712.

Council address: Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1400, Honolulu, HI.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220; fax: (808) 522–8226.

SUPPLEMENTARY INFORMATION: In 2001, commercial shark viewing operations began providing and promoting services to swim, dive and snorkel with sharks off the North Shore of Oahu. The operations essentially consist of deploying a protective cage into the water into which individuals enter while sharks swim freely outside of the cage. To keep sharks near the cage for viewing, tour operators often introduce chum (i.e. fish parts) into the water. In 2002, citing concerns of the risk to human safety, particularly, the potential increased risk of shark attacks on individuals not involved in shark feeding operations, the State of Hawaii promulgated regulations prohibiting the feeding of sharks for commercial purposes in state marine waters from 0 to three miles from shore. As a result of the State's law, commercial shark tour operations relocated into federal waters beyond three miles from shore where there are no rules or regulations in place to control this activity.

Currently, the commercial shark viewing operations occur three to four miles offshore of Haleiwa, HI in waters approximately 400 to 600 feet in depth. The precise locations are marked by buoys deployed by the tour operators. Species of sharks encountered during these operations include the galapagos shark (*Carcharhinus galapagensis*), the sandbar shark (*Carcharhinus plumbeus*), the hammerhead shark (*Sphyrna spp.*) and occasionally grey reef sharks (*Carcharhinus amblyrhynchos*) and tiger sharks (*Galeocerdo cuvier*).

Presently, information on the effects of commercial shark viewing operations on shark behavior and ecology, fish habitat and other user groups are largely anecdotal. As a result, there remains great uncertainty regarding the potential impacts to humans as well as to shark populations and the health of the marine ecosystem in this area.

The Council will convene a public meeting to gather public comments on options to research and manage shark viewing operations in federal waters around Hawaii. These include but are not limited to: (1) Conducting research on shark movement and behavior and population numbers in and around the North Shore of Oahu; (2) Recommending the State of Hawaii establish a moratorium on any new shark tour operations; (3) Establishing federal regulations for shark tour operations such as prohibiting or limiting the amount of chum that may be used, requiring shark tour operations to move further offshore, limiting the

number of shark tour operations; and (4) Banning on shark viewing operations in federal waters.

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

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

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

Dated: September 14, 2006.

Tracey L. Thompson,

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

[FR Doc. E6–15527 Filed 9–18–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090806D]

Western Pacific Regional Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The 93rd meeting of the Western Pacific Regional Fishery Management Council's (Council) Scientific and Statistical Committee (SSC) will convene Tuesday, October 3, 2006, through Thursday October 5, 2006. See **SUPPLEMENTARY INFORMATION** for specific times, dates, and agenda items.

DATES: The SSC meeting will be held between 8:30 a.m. and 5 p.m. on Tuesday, October 3, 2006, through Thursday October 5, 2006.

ADDRESSES: The SSC meeting will be held at the Council Office Conference Room, 1164 Bishop St., Suite 1400, Honolulu, HI; telephone: (808) 522–8220.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808)-522–8220.

SUPPLEMENTARY INFORMATION:

Tuesday, October 3, 2006, 9 a.m.

1. Introductions
2. Approval of Draft Agenda and Assignment of Rapporteurs
3. Approval of the Minutes of the 92nd Meeting
4. Report of the Pacific Science Center Director
5. Ecosystem and Habitat
   A. Northwestern Hawaiian Islands Monument (ACTION ITEM)
   B. Hawaii Archipelago Ecosystem Research Program
   C. Hawaii coral reef fisheries statistics
   D. Hawaii coral reef fisheries assessment
   E. American Samoa coral reef fish survey
   F. Guam Offshore Project
   G. Public Comment
   H. Discussion and Recommendations
6. Protected Species
   A. Update on protected species issues
   B. Monk seal fatty acid study report
   C. Public Comment
   D. Discussion and Recommendations
7. Insular Fisheries
   A. Precious Corals
   1. Recommendations Black Coral Workshop
   2. Plan Team Report
   3. Public comment
   4. Discussion and recommendations
   B. Crustaceans
   1. Addition of Heterocarpus to Fishery Ecosystem Plans (FEPs) (ACTION ITEM)
   2. Lobster Research
   3. Ecosystem Report on Oceanographic Conditions
   4. Plan Team Report
   5. Public comment
   6. Discussion and recommendations

Wednesday, October 4, 2006, 8:30 a.m.

7. Insular Fisheries (Cont'd)
   C. Bottomfish and Seamount Groundfish Issues
   1. Bottomfish Stock Assessment
   2. Update on Main Hawaiian Islands (MHI) bottomfish closed areas working group
   3. Status of bottomfish stocks
   4. Public comment
   5. Discussion and recommendations
8. Pelagics Fisheries
   A. Analysis of swordfish longline observer data
   B. Minimizing bycatch of loggerhead turtles based on a prediction of the transition zone frontal structure
   C. Prediction model for minimizing bycatch of sea turtles
   D. American Samoa and Hawaii Longline quarterly reports
   E. Swordfish Closure (ACTION ITEM)
   F. Pelagic stock assessments
   G. Shark management (ACTION ITEM)
   H. American Samoa fishery aggregating devices (FADs) (ACTION ITEM)
   I. Highly Migratory Species (HMS) quotas and data
   J. Bigeye Tuna (BET) quota in the Eastern Pacific Ocean (EPO)
   K. NMFS Pacific Island Fisheries Science Center (PIFSC) International Fisheries capabilities
   L. International Fisheries
   1. Inter-American Tropical Tuna Commission Annual Meeting
   2. Western & Central Pacific Fisheries Commission (Science Committee, Compliance Committee, Plenary)
   3. Council South Pacific Albacore Workshop
   M. Shark bycatch in longline fisheries
   N. Public Comment
   O. Discussion and Recommendations

Thursday, October 5, 2006, 8:30 a.m.

9. Social Science
   Indicators of community health
10. Other Business
   A. Stock assessment protocol
   B. Magnuson-Stevens Act (MSA) reauthorization
   C. 94th SSC meeting
11. Summary of SSC Recommendations to the Council

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

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

Dated: September 14, 2006.

Tracey L. Thompson,

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

[FR Doc. E6–15526 Filed 9–18–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090706A]

U.S. Climate Change Science Program Synthesis and Assessment Product Draft Report 2.2

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of availability and request for public comments.

SUMMARY: The National Oceanic and Atmospheric Administration publishes this notice to announce the availability of the draft Report for one of the U.S. Climate Change Science Program (CCSP) Synthesis and Assessment Products for public comment. This draft Report addresses the following CCSP Topic: Product 2.2 First State of the Carbon Cycle Report (SOCCR): The North American Carbon Budget and Implications for the Global Carbon Cycle.

After consideration of comments received on the draft Report, the final Report along with the comments received will be published on the CCSP web site.

DATES: Comments must be received by November 3, 2006.

ADDRESSES: The draft Report is posted on the CCSP Program Office web site. The web addresses to access the draft Report is:
Product 2.2 (Carbon Cycle)
http://www.climatescience.gov/Library/sap/sap2-2/default.htm

Detailed instructions for making comments on the draft Report is provided with the Report. Comments should be prepared in accordance with these instructions.

FOR FURTHER INFORMATION CONTACT: Fabien Laurier, Climate Change Science Program Office, 1717 Pennsylvania Avenue NW, Suite 250, Washington, DC 20006, Telephone: (202) 223–6262 (X3481).

SUPPLEMENTARY INFORMATION: The CCSP was established by the President in 2002 to coordinate and integrate scientific research on global change and climate change sponsored by 13 participating departments and agencies of the U.S. Government. The CCSP is charged with preparing information resources that support climate-related discussions and decisions, including scientific synthesis and assessment analyses that support evaluation of important policy issues. The Report addressed by this notice provides a topical overview and describes plans for scoping, drafting, reviewing, producing, and disseminating one of 21 final synthesis and assessment Products that will be produced by the CCSP.

Dated: September 11, 2006.

William J. Brennan,

Deputy Assistant Secretary of Commerce for International Affairs, and Acting Director, Climate Change Science Program.

[FR Doc. E6–15542 Filed 9–18–06; 8:45 am]

BILLING CODE 3510–12–S

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 11 a.m., Friday, October 6, 2006.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance matters.

FOR FURTHER INFORMATION CONTACT: Eileen A. Donovan, 202–418–5100.

Eileen A. Donovan,

Acting Secretary of the Commission.

[FR Doc. 06–7822 Filed 9–15–06; 3:33 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 11 a.m., Friday, October 13, 2006.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance matters.

FOR FURTHER INFORMATION CONTACT: Eileen A. Donovan, 202–418–5100.

Eileen A. Donovan,

Acting Secretary of the Commission.

[FR Doc. 06–7823 Filed 9–15–06; 3:35 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 11 a.m., Friday, October 20, 2006.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters.

FOR FURTHER INFORMATION CONTACT: Eileen A. Donovan, 202–418–5100.

Eileen A. Donovan,

Acting Secretary of the Commission.

[FR Doc. 06–7824 Filed 9–15–06; 3:37 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 11 a.m., Friday, October 27, 2006.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance matters.

FOR FURTHER INFORMATION CONTACT: Eileen A. Donovan, 202–418–5100.

Eileen A. Donovan,

Acting Secretary of the Commission.

[FR Doc. 06–7825 Filed 9–15–06; 3:39 pm]

BILLING CODE 6351–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the "Corporation"), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. Sec. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, the Corporation is soliciting comments concerning its proposed renewal of its AmeriCorps*NCCC Service Project Application form. The Service Project Application is used in the development of community service projects between AmeriCorps*NCCC and sponsoring organizations.

Copies of the information collection requests can be obtained by contacting the office listed in the address section of this notice.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by November 20, 2006.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) By mail sent to: Corporation for National and Community Service, AmeriCorps*NCCC; Attention Phil Shaw, 1201 New York Avenue, NW., 10th Floor, Washington, DC 20525.

(2) By hand delivery or by courier to the Corporation's mailroom at Room 8100 at the mail address given in paragraph (1) above, between 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

(3) By fax to: (202) 606–3462, Attention: Phil Shaw.

(4) Electronically through the Corporation's e-mail address system: *pshaw@cns.gov*.

FOR FURTHER INFORMATION CONTACT: Phil Shaw, (202) 606–6697.

SUPPLEMENTARY INFORMATION: The Corporation is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are expected to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.*, permitting electronic submissions of responses).

Background

The NCCC accomplishes its mission by working with local community organizations and groups to help them meet needs that they have identified and that would not be fully addressed without additional assistance. Potential sponsors are required to submit an application that outlines project goals and activities. Because we are recruiting and expect to complete additional projects, we have increased the total number of respondents and total burden hours.

Current Action

The Corporation seeks to renew and revise the current applications. The revisions will correct program information and update program locations and geographical jurisdictions. Updated program language will also be provided to clarify roles and responsibilities.

The application will otherwise be used in the same manner as the existing application. The Corporation also seeks to continue using the current application until the revised application is approved by OMB. The current application is due to expire on December 31, 2006.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: AmeriCorps*NCCC Service Project Application.

OMB Number: 3045–0010.

Agency Number: None.

Affected Public: Current/prospective recipients of AmeriCorps*NCCC assistance.

Total Respondents: 1,500.

Frequency: On occasion with the request of AmeriCorps*NCCC support.

Average Time Per Response: Averages 8 hours.

Estimated Total Burden Hours: 12,000 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: September 13, 2006.

Merlene Mazyck,

*Director, AmeriCorps*NCCC.*

[FR Doc. E6–15495 Filed 9–18–06; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[DoD–2006–OS–0196]

Base Closure and Realignment

AGENCY: Department of Defense, Office of Economic Adjustment.

ACTION: Notice.

SUMMARY: This Notice is provided pursuant to section 2905(b)(7)(B)(ii) of the Defense Base Closure and Realignment Act of 1990. It provides a partial list of military installations closing or realigning pursuant to the 2005 Defense Base Closure and Realignment (BRAC) Report. It also provides a corresponding listing of the Local Redevelopment Authorities (LRAs) recognized by the Secretary of Defense, acting through the Department of Defense Office of Economic Adjustment (OEA), as well as the points of contact, addresses, and telephone numbers for the LRAs for those installations. Representatives of State and local governments, homeless providers, and other parties interested in the redevelopment of an installation should contact the person or organization listed. The following information will also be published simultaneously in a newspaper of general circulation in the area of each installation. There will be additional Notices providing this same information about LRAs for other closing or realigning installations where surplus government property is available as those LRAs are recognized by the OEA.

EFFECTIVE DATE: September 19, 2006.

FOR FURTHER INFORMATION CONTACT: Director, Office of Economic Adjustment, Office of the Secretary of Defense, 400 Army Navy Drive, Suite 200, Arlington, VA 22202–4704, (703) 604–6020.

Local Redevelopment Authorities (LRAs) for Closing and Realigning Military Installations

Minnesota

Installation name: Navy Reserve Center.
LRA Name: Hermantown Economic Development Authority.
Point of Contact: Lynn Lander, City Administrator, City of Hermantown.
Address: 5255 Maple Grove Road, Hermantown, MN 55811.
Phone: (218) 729–3601.

Ohio

Installation Name: SSG Roy Clifton Scouten USARC.
LRA Name: Mansfield Local Redevelopment Authority.
Point of Contact: Tim Bowersock, Economic Development Director, City of Mansfield.
Address: 30 N. Diamond Street, Mansfield, OH 44902.
Phone: (419) 755–9794.

Pennsylvania

Installation Name: Lewisburg USARC.
LRA Name: Kelly Township Local Redevelopment Authority.
Point of Contact: David S. Hassenplug, Chairman, Kelly Township Supervisors.
Address: 551 Zeigler Road, Lewisburg, PA 17837.
Phone: (570) 524–0437.

Washington

Installation Name: PFC Joe E. Mann USARC/AMSA 80.

LRA Name: City of Spokane.
Point of Contact: Michael H. Adolfae, Director, Community Development Department, City of Spokane.
Address: 808 W. Spokane Falls Blvd., Spokane, WA 99201–3335.
Phone: (509) 625–6325.

Wisconsin

Installation Name: General Mitchell Air Reserve Station.
LRA Name: Milwaukee 440th Local Redevelopment Authority.
Point of Contact: David Misky, Redevelopment Authority of Milwaukee.
Address: 809 N. Broadway, 2nd Floor, Milwaukee, WI 53202.
Phone: (414) 286–8682.

Dated: September 13, 2006.

L.M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 06–7745 Filed 9–18–06; 8:45 am]
BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Prepare an Environmental Impact Statement (EIS) for Proposed Dredging of the Norfolk Harbor Channel, Norfolk and Portsmouth, Virginia and To Announce Public Scoping Meetings

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500–1508), the Department of the Navy (DoN) announces its intent to prepare an EIS to evaluate the potential environmental impacts associated with the dredging of 4.8 miles of Norfolk Harbor Channel in the Elizabeth River. The proposed channel deepening project is located in the Federal navigation channel in Norfolk and Portsmouth, Virginia. Discussions are underway with the United States Army Corps of Engineers (USACE) to be a cooperating agency in the preparation of the EIS. The EIS will consider reasonable alternatives to the proposed action, including the No Action Alternative.

DATES: Public scoping meetings will be held in Norfolk, Virginia and Portsmouth, Virginia, to receive oral and/or written comments on environmental concerns that should be addressed in the EIS. The public scoping meetings will be held on:

1. Wednesday, October 4, 2006, 3 p.m.–8 p.m., Hilton Norfolk Airport, 1500 North Military Highway, Norfolk, Virginia.

2. Thursday, October 5, 2006, 3–8 p.m., Renaissance Portsmouth Hotel & Waterfront Conference Center, 425 Water Street, Portsmouth, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John Conway, Environmental Planning Section, Naval Facilities Engineering Command (NAVFAC) Atlantic, 6506 Hampton Boulevard, Norfolk, Virginia 23508–1278; telephone 757–322–4761 or fax 757–594–1469.

SUPPLEMENTARY INFORMATION: The proposed action is to deepen approximately 4.8 miles of the Norfolk Harbor Channel located in the southern branch of the Elizabeth River in southeastern Virginia. The project in the Federal navigation channel will extend from the vicinity of Lambert's Bend into Middle Reach to a point just north of the confluence of Paradise Creek and the Elizabeth River at the entrance of the Norfolk Naval Shipyard (NNSY). The proposed deepening will provide CVN class carriers with safe and unrestricted access to the Deperming Station and NNSY. The project will dredge the Federal navigation channel in the vicinity of the Lambert's Point Deperming Station to a depth of 50 feet below mean low low water (MLLW) plus an additional one feet of allowable over dredge. The remainder of the Federal navigation channel will be dredged to a depth of 47 feet MLLW with an additional one feet of allowable overdredge. The proposed deepening will generate approximately 5.4 million cubic yards of dredged material. It is anticipated that this dredged material will be placed at the USACE's regional dredged material disposal site on Craney Island in Portsmouth, Virginia.

Current Federal navigation channel depths impede access/egress to the deperming station and there have been numerous incidents of fouling and clogging of cooling systems of the CVN carriers while in transit in the channel. The project is required in order to bring the Federal navigation channel in compliance with DoN requirements for water depth beneath the keel, for both operational and "dead stick" (towing) transits of CVN 68 and non-CVN 68 Class carriers. Adequate channel depths are needed for the safe and efficient transit of CVN Class Aircrafeet Carriers to maintain fleet readiness. The current condition of the Norfolk Harbor Channel is not acceptable and prevents full operational capability and CVN access to Lambert's Point Deperming Station and NNSY.

The Norfolk Harbor Channel is the only means of CVN access to the deperming station and NNSY. Only alternatives that will satisfy the required channel depths for CVN transits are considered by the Navy to be reasonable. In addition to the proposed deepening program, Navy is considering an alternative involving a combination of partial channel dredging and operational restrictions based on tidal activity. Under this alternative approach, the Federal navigation channel would be dredged to 45 feet below MLLW, and 2.5 feet tidal fluctuations would be used to provide the remaining depth required for adequate keel clearance. It should be noted that this alternative would continue to impose limitations on the operational capability and readiness of the CVN fleet. A No Action Alternative will also be evaluated in the EIS.

The EIS will address the potential environmental impacts of the proposed action and its alternatives, including the No Action Alternative. Key environmental issues that will be addressed in the EIS include marine biological resources including Essential Fish Habitat, fisheries, marine mammals, invertebrates, and threatened and endangered species; water quality; cultural resources; human health and safety; and socioeconomics and land use (*i.e.*, commercial, private, and recreational uses of the marine environment); and cumulative impacts.

The Navy is initiating this scoping process to identify community concerns and issues that should be addressed in the EIS. Federal, State, and local agencies, the public, and interested parties are encouraged to provide comments to DoN that clearly describe specific issues or topics of environmental concern that the commenter believes the DoN should consider. All comments, written or provided orally at the scoping meetings, will receive the same attention and consideration during EIS preparation.

Written comments on the scope of the EIS should be postmarked no later than Thursday, October 19, 2006. These comments may be mailed or faxed to: Mr. John Conway, Environmental Planning Section, NAVFAC Atlantic, 6506 Hampton Boulevard, Norfolk, Virginia 23508–1278, telephone 757–322–4761, or fax 757–594–1469.

Dated: August 10, 2006.

M.A. Harvison,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E6–15509 Filed 9–18–06; 8:45 am]
BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to Delete Systems of Records.

SUMMARY: The Department of the Navy is deleting a system of records notice from its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: Effective September 19, 2006.

ADDRESSES: Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations, (DNS–36), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Ms. Doris Lama at (202) 685–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: September 13, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N01500–3

SYSTEM NAME:

Students Awaiting Legal, Medical Action Account (February 22, 1993, 58 FR 10715).

Delete system.

Reason: System no longer in use. Any relevant information was incorporated into the member's military personnel file, N01070–3 (November 16, 2004, 69 FR 67128).

[FR Doc. 06–7747 Filed 9–18–06; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Performance Review Board Membership

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: Pursuant to 5 U.S.C. 4314(c)(4), the Department of the Navy (DON) announces the appointment of members to the DON's numerous Senior Executive Service (SES) Performance Review Boards (PRBs). The purpose of the PRBs is to provide fair and impartial review of the annual SES performance appraisal prepared by the senior executive's immediate and second level supervisor; to make recommendations to appointing officials regarding acceptance or modification of the performance rating; and to make recommendations for performance bonuses and basic pay increases. Composition of the specific PRBs will be determined on an ad hoc basis from among individuals listed below:

Adams, P.C. Ms.
Arny, L.W. Mr.
Aviles, D.M., The Honorable
Balderson, W.M. Mr.
Barber, A.H. Mr.
Barnum, H.C. Mr.
Beland, R.W. Dr.
Betro, T.A. Mr.
Blair, A.K. Ms.
Blincoe, R.J. Mr.
Bourbeau, S.J. Ms.
Branch, E.B. Mr.
Brennan, A.M. Ms.
Brotherton, A.E. Ms.
Brown, M. Rdml
Cali, R.T. Mr.
Carlin, R. Mr.
Cohn, H.A. Mr.
Cook, C.E. Mr.
Creedon, C.G. Mr.
Davenport, D. Radm
Davis, L.C. Dr.
Decker, J. Ms.
Decker, M.H. Mr.
Deitchman, M. Mr.
Dunn, S.C. Mr.
Enewold, G. Radm
Erland, C. Ms.
Etter, D.M., The Honorable
Evans, G.L. Ms.
Evans, I.E. Ms.
Ferko, J.G. Mr.
Fischer, J. Dr.
Gardner, E.N. Ltgen
Giacchi, C.A. Mr.
Glas, R.A. Mr.
Gordon, F. Dr.
Greco, R., The Honorable
Griffes, M.D. Mr.
Goddard, C.H. Rdml
Godwin, A. Ms.
Goodhart, J.C. Mr.
Guard, H. Mr.
Hagedorn, G.D. Mr.
Hamilton, C. Radm
Harvey, J.C. Vadm
Haynes, R.S. Mr.
Herr, R. Dr.
Hogue, R.D. Mr.
Honecker, M.W. Mr.
Howard, J.S. Mr.
James, J.H. Mr.
Junker, B.R. Dr.
Karle, I. Dr.
Kamlich, R.S. Ltgen
Kaskin, J.D. Mr.
Kleintop, M.U. Ms.
Krasik, S.A. Ms.
Kunesh, N.J. Mr.
La Raia, J.H. Mr.
Lake, R. Bgen
Laux, T.E. Mr.
Lawrence, J. Dr.
Leach, R.A. Mr.
Ledvina, T.N. Mr.
Leggieri, S.R. Ms.
Leikach, K. Mr.
Lewis, R.D. Ms.
Loftus, J.V. Ms.
Lowell, P.M. Mr.
Lucchino, C. Ms.
Magnus, R. Ltgen
Marshall, J.B. Mr.
Masciarelli, J.R. Mr.
Mccormack, Jr., D.F. Mr.
Mccoy, K.M. Rdml
Mccurdy, J. Mr.
Mcgrath, M.F. Mr.
Mcguire, M.M. Ms.
Mclaughlin, P.M. Mr.
Mcnair, J.W. Mr.
Meadows, L.J. Ms.
Meeks, Jr., A.W. Dr.
Meng, J.C. Dr.
Molzahn, W.R. Mr.
Montgomery, J.A. Dr.
Muth, C.C. Ms.
Navas, Jr., W.A., The Honorable
Ney, P.C. Mr.
O'neil, S. Mr.
Penn, B.J., The Honorable
Persons, B.J. Mr.
Plunkett, B.J. Mr.
Pic, J.E. Mr.
Raps, S.P. Ms.
Reeves, C.R. Mr.
Rhodes, M.L. Mr.
Roark, Jr., J.E. Mr.
Rosenthal, R.J. Mr.
Ryzewic, W.H. Mr.
Sandel, E.A. Ms.
Schaefer, J.C. Mr.
Schregardus, D.R. Mr.
Shephard, M.R. Ms.
Simon, E.A. Mr.
Skinner, W. Rdml
Smith, R.F. Mr.
Smith, R.M. Mr.
Solhan, G. Mr.
Somoroff, A.R. Dr.
Sorenson, D. Capt
Steffee, D.P. Mr.
Stiller, A.F. Ms.
Summerall, W. Mr.
Tamburrino, P.M. Mr.
Tesch, T.G. Mr.
Thackrah, J. Mr.
Timme, W.G. Rdml
Townsend, D.K. Ms.
Trautman, S.J. Mr.

Ward, J.D. Mr.
Weyman, A.S. Mr.
Whittemore, A. Ms.
Wood, B.H. Mr.
Wieringa, J. Rdml
Wright Jr., J.W. Dr.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Palmer, Office of Civilian Human Resources, telephone 202–685–6665.

Dated: September 12, 2006.

M.A. Harvison,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E6–15506 Filed 9–18–06; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Overview Information; National Institute on Disability and Rehabilitation Research (NIDRR)—Disability and Rehabilitation Research Projects and Centers Program—Advanced Rehabilitation Research Training (ARRT) Projects; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2007

Catalog of Federal Domestic Assistance (CFDA) Number: 84.133P.

Dates: Applications Available: September 19, 2006. Deadline for Transmittal of Applications: November 20, 2006.

Eligible Applicants: Institutions of higher education (IHEs).

Estimated Available Funds: $900,000. The Administration has requested $106,705,000 for NIDRR for FY 2007, of which we intend to use an estimated $900,000 for the ARRT competition. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Estimated Average Size of Awards: $150,000.

Maximum Award: We will reject any application that proposes a budget exceeding $150,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Note: Indirect cost reimbursement on a training grant is limited to eight percent of a modified total direct cost base, defined as total direct costs less stipends, tuition, and related fees.

Estimated Number of Awards: 6.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of this program is to provide research training and experience at an advanced level to individuals with doctorates or similar advanced degrees who have clinical or other relevant experience. ARRT projects train rehabilitation researchers, including individuals with disabilities, with particular attention to research areas that support the implementation and objectives of the Rehabilitation Act of 1973, as amended (Act), and that improve the effectiveness of services authorized under the Act.

Program Requirements: ARRT projects must—(1) Recruit and select candidates for advanced research training; (2) Provide a training program that includes didactic and classroom instruction, is multidisciplinary, emphasizes scientific methodology, and may involve collaboration among institutions; (3) Provide research experience, laboratory experience, or its equivalent in a community-based research setting, and a practicum that involve each individual in clinical research and in practical activities with organizations representing individuals with disabilities; (4) Provide academic mentorship or guidance, and opportunities for scientific collaboration with qualified researchers at the host university and other appropriate institutions; and (5) Provide opportunities for participation in the development of professional presentations and publications, and for attendance at professional conferences and meetings, as appropriate for the individual's field of study and level of experience.

It is expected that applicants will articulate goals, objectives, and expected outcomes for the proposed capacity building activities. Applicants should describe expected public benefits, especially benefits for individuals with disabilities, and propose projects that are optimally designed to demonstrate outcomes that are consistent with the proposed goals. Applicants are encouraged to include information describing how they will measure outcomes, including the indicators that will represent the end-result. Submission of this information is voluntary except where required by the selection criteria listed in the application package.

Note: This program is in concert with President George W. Bush's New Freedom Initiative (NFI) and NIDRR's Final Long-Range Plan for FY 2005–2009 (Plan). The NFI can be accessed on the Internet at the following site: *http://www.whitehouse.gov/infocus/newfreedom.*

The Plan is comprehensive and integrates many issues relating to disability and rehabilitation research topics. The Plan, which was published in the **Federal Register** on February 15, 2006 (71 FR 8165), can be accessed on the Internet at the following site: *http://www.ed.gov/about/offices/list/osers/nidrr/policy.html.*

Through the implementation of the Plan, NIDRR seeks to— (1) Improve the quality and utility of disability and rehabilitation research; (2) Foster an exchange of expertise, information, and training to facilitate the advancement of knowledge and understanding of the unique needs of traditionally underserved populations; (3) Determine best strategies and programs to improve rehabilitation outcomes for underserved populations; (4) Identify research gaps; (5) Identify mechanisms of integrating research and practice; and (6) Disseminate findings.

Program Authority: 29 U.S.C. 762(k).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 84, 85, 86, and 97. (b) The regulations for this program in 34 CFR part 350.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $900,000. The Administration has requested $106,705,000 for NIDRR for FY 2007, of which we intend to use an estimated $900,000 for the ARRT competition. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Estimated Average Size of Awards: $150,000.

Maximum Award: We will reject any application that proposes a budget exceeding $150,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Note: Indirect cost reimbursement on a training grant is limited to eight percent of a modified total direct cost base, defined as total direct costs less stipends, tuition, and related fees.

Estimated Number of Awards: 6.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* IHEs.

2. *Cost Sharing or Matching:* This competition does not involve cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* You may obtain an application package via Internet or from the Education Publications Center (ED Pubs). To obtain a copy via Internet use the following address: *http://www.ed.gov/fund/grant/apply/grantapps/index.html.*

To obtain a copy from ED Pubs, write or call the following: Education Publications Center, P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *www.ed.gov/pubs/edpubs.html* or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA Number 84.133P.

Individuals with disabilities may obtain a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you limit Part III to the equivalent of no more than 75 pages, using the following standards:

- A "page" is 8.5" x 11", on one side only, with 1" margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative. Single spacing may be used for titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

The suggested page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, you must include all of the application narrative in Part III.

The application package will provide instructions for completing all components to be included in the application. Each application must include a cover sheet (Standard Form 424); budget requirements (ED Form 524) and budget narrative justification; other required forms; an abstract, Human Subjects narrative, Part III narrative; resumes of staff; and other related materials, if applicable.

3. *Submission Dates and Times:* Applications Available: September 19, 2006. Deadline for Transmittal of Applications: November 20, 2006.

Applications for grants under this competition may be submitted electronically using the Grants.gov Apply site (Grants.gov), or in paper format by mail or hand delivery. For information (including dates and times) about how to submit your application electronically, or by mail or hand delivery, please refer to section IV. 6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under this competition may be submitted electronically or in paper format by mail or hand delivery.

a. *Electronic Submission of Applications.* We have been accepting applications electronically through the Department's e-Application system since FY 2000. In order to expand on those efforts and comply with the President's Management Agenda, we are continuing to participate as a partner in the new government wide Grants.gov Apply site in FY 2007. Advanced Rehabilitation Research Training (ARRT) Projects—CFDA Number 84.133P is one of the programs included in this project. We request your participation in Grants.gov.

If you choose to submit your application electronically, you must use the Grants.gov Apply site at: *http://www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

You may access the electronic grant application for Advanced Rehabilitation Research Training (ARRT) Projects at: *http://www.grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search.

Please note the following:

- Your participation in Grants.gov is voluntary.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are time and date stamped. Your application must be fully uploaded and submitted, and must be date/time stamped by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not consider your application if it is date/time stamped by the Grants.gov system later than 4:30 p.m., Washington, DC time, on the application deadline date. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date/time stamped by the Grants.gov system after 4:30 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov at *http://e-Grants.ed.gov/help/GrantsgovSubmissionProcedures.pdf.*
- To submit your application via Grants.gov, you must complete all of the

steps in the Grants.gov registration process (see *http://www.grants.gov/applicants/get_registered.jsp*).

These steps include (1) registering your organization, (2) registering yourself as an Authorized Organization Representative (AOR), and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see *http://www.grants.gov/section910/Grants.govRegistrationBrochure.pdf*). You also must provide on your application the same D-U-N-S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to successfully submit an application via Grants.gov.

- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you submit your application in paper format.
- You must submit all documents electronically, including the following forms: Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. Please note that two of these forms—the SF 424 and the Department of Education Supplemental Information for SF 424—have replaced the ED 424 (Application for Federal Education Assistance). You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified above or submit a password protected file, we will not review that material.
- Your electronic application must comply with any page limit requirements described in this notice.
- After you electronically submit your application, you will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The Department will retrieve your application from Grants.gov and send you a second confirmation by e-mail that will include a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of System Unavailability

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically, or by hand delivery. You also may mail your application by following the mailing instructions as described elsewhere in this notice. If you submit an application after 4:30 p.m., Washington, DC time, on the deadline date, please contact the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT**, and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number (if available). We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: Extensions referred to in this section apply only to the unavailability of or technical problems with the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

b. *Submission of Paper Applications by Mail.* If you submit your application in paper format by mail (through the U.S. Postal Service or a commercial carrier), you must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.133P), 400 Maryland Avenue, SW., Washington, DC 20202–4260; or

By mail through a commercial carrier: U.S. Department of Education, Application Control Center—Stop 4260, Attention: (CFDA Number 84.133P), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark,

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service,

(3) A dated shipping label, invoice, or receipt from a commercial carrier, or

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.* If you submit your application in paper format by hand delivery, you (or a courier service) must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.133P), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department:

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number—and suffix letter, if any—of the competition under which you are submitting your application.

(2) The Application Control Center will mail a grant application receipt acknowledgment to you. If you do not receive the grant application receipt acknowledgment within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

Selection Criteria:

The selection criteria for this competition are from 34 CFR 350.54 and are listed in the application package.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S.

Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118.

Note: NIDRR will provide information by letter to grantees on how and when to submit the report.

4. *Performance Measures:* To evaluate the overall success of its research program, NIDRR assesses the quality of its funded projects through review of grantee performance and products. Each year, NIDRR examines, through expert review, a portion of its grantees to determine:

- The percentage of newly awarded NIDRR projects that are multi-site, collaborative controlled studies of interventions and programs.
- The number of accomplishments (*e.g.*, new or improved tools, methods, discoveries, standards, interventions, programs, or devices) developed or tested with NIDRR funding that have been judged by expert panels to be of high quality and to advance the field.
- The percentage of grantee research and development that has appropriate study design, meets rigorous standards of scientific and/or engineering methods, and builds on and contributes to knowledge in the field.
- The average number of publications per award based on NIDRR-funded research and development activities in refereed journals.
- The percentage of new grants that include studies funded by NIDRR that assess the effectiveness of interventions, programs, and devices using rigorous and appropriate methods.
- The percentage of NIDRR-supported fellows, post-doctoral trainees, and doctoral students who publish results of NIDRR-sponsored research in refereed journals.

NIDRR uses information submitted by grantees as part of their Annual Performance Reports (APRs) for these reviews. NIDRR also determines, using information submitted as part of the APR, the number of publications in refereed journals that are based on NIDRR-funded research and development activities.

Department of Education program performance reports, which include information on NIDRR programs, are available on the Department's Web site: *http://www.ed.gov/about/offices/list/opepd/sas/index.html.*

Updates on the Government Performance and Results Act of 1993 (GPRA) indicators, revisions and methods appear on the NIDRR Program Review Web site: *http://www.neweditions.net/pr/commonfiles/pmconcepts.htm.*

Grantees should consult these sites, on a regular basis, to obtain details and explanations on how NIDRR programs contribute to the advancement of the Department's long-term and annual performance goals.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., room 6030, Potomac Center Plaza, Washington, DC 20202. Telephone: (202) 245–7462 or by e-mail. *donna.nangle@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 245–7317 or the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact person listed in this section.

III. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *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: *www.gpoaccess.gov/nara/index.html.*

Dated: September 13, 2006.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. E6–15547 Filed 9–18–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL00–95–135; EL00–98–122]

California Independent System Operator Corporation; Notice of Compliance Filing

September 13, 2006.

Take notice that on September 1, 2006, California Independent System Operator Corporation (CAISO) tendered for filing an Offer of Settlement and Amended Compliance filed on August 5, 2005.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the

Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on September 22, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–15520 Filed 9–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID–4064–003]

Coons, Rick D.; Notice of Filing

September 13, 2006.

Take notice that on August 25, 2006, Rick D. Coons filed an amended application for authorization to hold interlocking positions for Wabash Valley Power Association, Inc., Cooperative Energy Services Power Marketing, LLC and Wabash Valley Energy Marketing, pursuant to Section 305(b) of the Federal Power Act, 16 U.S.C. 825d(b), Part 45 of the Rules of Practice and Procedure, 18 CFR Part 45 and Order No. 664.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on September 29, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–15522 Filed 9–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER06–707–001]

Entergy Arkansas, Inc.; Notice of Filing

September 13, 2006.

Take notice that on August 24, 2006, Entergy Arkansas, Inc. (Entergy Services) filed an Offer of Settlement Agreement between Entergy Services and Arkansas Electric Cooperative Corporation.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 4, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–15521 Filed 9–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP05–92–001; CP05–93–001; CP05–94–002]

Liberty Gas Storage LLC; Notice of Application To Amend Certificate

September 13, 2006.

Take notice that on September 7, 2006, Liberty Gas Storage LLC (Liberty), 101 Ash Street, San Diego, CA 92101, filed in the above referenced dockets, an application pursuant to section 7(c) of the Natural Gas Act (NGA), requesting authorization to amend its certificate of public convenience and necessity that was issued pursuant to section 7 of the NGA, and its blanket certificates issued pursuant to 18 CFR Parts 157 and 284, 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Specifically, Liberty requests authorization from the Commission to enter into a transaction necessary for Liberty to receive a real property tax exemption with respect to the pipeline, compression and appurtenant facilities in Calcasieu Parish, Louisiana that have been authorized by the Commission. The transaction will consist of the transfer of legal title to such facilities to a local governmental agency, the Industrial Development Board of Calcasieu Parish, Louisiana (Development Board). The Development Board will, upon transfer of title, lease the facilities back to Liberty. Liberty

will thus retain operational control of, and responsibility for, the facilities. Liberty asserts that the transaction will have no effect on the natural gas storage and other services that Liberty will provide to its customers. Upon termination of the lease, Liberty will reacquire title to the facilities.

Any questions regarding Liberty Gas Storage, LLC's application should be directed to: William D. Rapp, Senior Regulatory Counsel, Sempra Energy, 101 Ash Street, HQ 13, San Diego, CA 92101, phone: (619) 699–5050, e-mail: *wrapp@sempra.com*; or to: Stacy Van Goor, Director, Federal Energy Regulatory Affairs, Sempra Global, 101 Ash Street, HQ 8, San Diego, CA 92101, phone (619)696–2264, e-mail: *svangoor@sempraglobal.com*.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

Persons who wish to comment only on the environmental review of this project, or in support of or in opposition to this project, should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. 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 (except for the mailing of environmental documents 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 (*www.ferc.gov*) under the "e-Filing" link.

Comment Date: October 4, 2006

Magalie R. Salas,

Secretary.

[FR Doc. E6–15525 Filed 9–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TS04–248–002]

National Fuel Gas Supply Corporation; Notice of Filing

September 13, 2006.

Take notice that on August 21, 2006, National Fuel Gas Supply Corporation (National Fuel) tendered for filing its revised compliance plan regarding its relationship with National Fuel Gas Distribution Corporation, its affiliated local distribution company.

National Fuel states that the filing is being made in compliance with paragraph 21 and ordering paragraph (A) of the Commission's Order issued July 20, 2006 in the above referenced docket. (*National Fuel Gas Supply Corporation, et al.*, TS04–248–001).

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 2, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–15517 Filed 9–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–437–000]

Northern Indiana Fuel and Light Company, Inc.; Notice of Application

September 13, 2006.

Take notice that on August 29, 2006, Northern Indiana Fuel and Light Company, Inc. (NIFL) 501 Technology Drive, Canonsburg, Pennsylvania 15317, filed in Docket No. CP06–437–000, an application pursuant to section 7(c) of the Natural Gas Act (NGA) requesting a blanket transportation certificate pursuant to Part 284.224 of the Commission's regulations which would authorize NIFL to transport natural gas in interstate commerce to the same extent and in the same manner that intrastate pipelines are authorized to engage in such activities under Subparts C and D of Part 284 of the Commission's regulations, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. NIFL states that it has also submitted a copy of its application to the Indiana Utility Regulatory Commission. 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.

Any questions regarding this application should be directed to Kenneth W. Christman, 501 Technology Drive, Canonsburg, Pennsylvania 15317, or at (724) 416–6315 (telephone); (724)

416–6384 (fax); *kchristman@nisource.com* (e-mail).

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a) (1) (iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Comment Date: September 25, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–15518 Filed 9–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG06–46–000]

Rumford Falls Hydro LLC; Notice of Effectiveness of Exempt Wholesale Generator or Foreign Utility Company Status

September 13, 2006.

Take notice that during the month of August 2006, the status of the above-captioned entity as an Exempt Wholesale Generator became effective by operation of the Commission's regulations. 18 CFR 366.7(a).

Magalie R. Salas,

Secretary.

[FR Doc. E6–15519 Filed 9–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests and Comments

September 13, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–12724–000.

c. *Date filed:* August 18, 2006.

d. *Applicant:* City of Quincy, Illinois.

e. *Name of Project:* Mississippi Lock & Dam No. 21 Hydroelectric Project.

f. *Location:* At the existing U.S. Army Corps of Engineers' Mississippi Lock and Dam No. 21 on the Mississippi River, in Marion County, Missouri, and Adams County, Illinois.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)—825(r).

h. *Applicant Contact:* Mr. Kenneth Cantrell, Director of Administrative Services, City of Quincy, 730 Maine Street, Quincy, IL 62301, (217) 228–4500.

i. *FERC Contact:* Patricia W. Gillis at (202) 502–8735.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Mississippi Lock and Dam No. 21, and would consist of the following facilities: (1) A proposed powerhouse containing 16 generating units with an installed capacity of 17.70 megawatts; (2) a proposed 12-mile-long 69-kilovolt or a proposed 1/4-mile-long 34.5-kilovolt or 3/4-mile-long 138 kilovolt transmission line; and (3) appurtenant facilities. The average annual generation is estimated to be 69,185 megawatt hours.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street NE, Room 2A, Washington DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit

application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; See 18 CFR 385.2001 (a)(1)(iii) and the instructions on the Commission's web site under "e-filing" link. The Commission strongly encourages electronic filing.

s. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–15523 Filed 9–18–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2232–522]

Duke Power Company LLC; Notice of Application and Settlement Agreement Tendered for Filing With the Commission, Soliciting Comments on the Settlement, Additional Study Requests, Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

September 13, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2232–522.

c. *Date filed:* August 29, 2006.

d. *Applicant:* Duke Power Company LLC—current licensee.

e. *Name of Project:* Catawba-Wateree Hydroelectric Project.

f. *Location:* On the Catawba River, in Alexander, Burke, Caldwell, Catawba, Gaston, Iredell, Lincoln, McDowell, and Mecklenburg Counties, North Carolina, and on the Catawba and Wateree Rivers in the counties of Chester, Fairfield, Kershaw, Lancaster, and York, South Carolina.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)—825(r).

h. *Applicant Contact:* Jeffrey G. Lineberger, Catawba-Wateree Hydro Relicensing Manager; and E. Mark Oakley, Catawba-Wateree Relicensing Project Manager, Duke Energy, Mail Code EC12Y, P.O. Box 1006, Charlotte, NC 28201–1006.

i. *FERC Contact:* Sean Murphy at 202–502–6145; *Sean.Murphy@ferc.gov.*

j. *Cooperating Agencies:* We are asking Federal, State, and local and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing comments described in item k below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. See, 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. Deadline for filing comments on the settlement, additional study requests, and requests for cooperating agency status: 60 days from the date of filing of the application. Reply comments on the settlement are due: 75 days from the date of filing of the application.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Comments on the settlement, additional study requests, and requests for cooperating agency status may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. 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.

m. This application is not ready for environmental analysis at this time.

n. *The existing Catawba-Wateree Project comprises eleven developments:*

(I) The Bridgewater development consists of the following existing facilities: (1) The Catawba dam consisting of: (a) a 1,650-foot-long, 125-foot-high earth embankment; (b) a 305-foot-long, 120-foot-high concrete gravity ogee spillway; and (c) a 850-foot-long, 125-foot-high earth embankment; (2) the Paddy Creek dam consisting of: a 1,610-foot-long, 165-foot-high earth embankment; (3) the Linville dam consisting of: A 1,325-foot-long, 160-foot-high earth embankment; (4) a 430-foot-long uncontrolled low overflow weir spillway situated between Paddy Creek Dam and Linville Dam; (5) a 6,754 acre reservoir formed by Catawba, Paddy Creek, and Linville with a normal water surface elevation of 1,200 feet above msl; (6) a 900-foot-long concrete-lined intake tunnel; (7) a powerhouse containing two vertical Francis-type turbines directly connected to two generators, each rated at 10,000 kW, for a total installed capacity of 20.0 MW; and (8) other appurtenances.

(II) *The Rhodhiss development consists of the following existing facilities:* (1) The Rhodhiss dam consisting of: (a) A 119.58-foot-long concrete gravity bulkhead; (b) a 800-foot-long, 72-foot-high concrete gravity ogee spillway; (c) a 122.08-foot-long concrete gravity bulkhead with an additional 8-foot-high floodwall; and (d) a 283.92-foot-long rolled fill earth embankment; (2) a 2,724 acre reservoir with a normal water surface elevation of 995.1 feet above msl; (4) a powerhouse integral to the dam, situated between the bulkhead on the left bank and the ogee spillway section, containing three vertical Francis-type turbines directly connected to three generators, two rated at 12,350 kW, one rated at 8,500 kW for a total installed capacity of 28.4 MW; and (5) other appurtenances.

(III) *The Oxford development consists of the following existing facilities:* (1) The Oxford dam consisting of: (a) A 74.75-foot-long soil nail wall; (b) a 193-foot-long emergency spillway; (c) a 550-foot-long gated concrete gravity spillway; (d) a 112-foot-long embankment wall situated above the powerhouse; and (e) a 429.25-foot-long earth embankment; (2) a 4,072 acre reservoir with a normal water surface elevation of 935 feet above msl; (4) a powerhouse integral to the dam, situated between the gated spillway and the earth embankment, containing two vertical Francis-type turbines directly connected to two generators, each rated at 18,000 kW for a total installed capacity of 35.7 MW; and (5) other appurtenances.

(IV) *The Lookout Shoals development consists of the following existing facilities:* (1) The Lookout Shoals dam consisting of: (a) A 282.08-foot-long concrete gravity bulkhead section; (b) a 933-foot-long uncontrolled concrete gravity ogee spillway; (c) a 65-foot-long gravity bulkhead section; and (d) a 1,287-foot-long, 88-foot-high earth embankment; (2) a 1,155 acre reservoir with a normal water surface elevation of 838.1 feet above msl; (3) a powerhouse integral to the dam, situated between the bulkhead on the left bank and the ogee spillway, containing three main vertical Francis-type turbines and two smaller vertical Francis-type turbines directly connected to five generators, the three main generators rated at 8,970 kW, and the two smaller rated at 450 kW for a total installed capacity of 25.7 MW; and (4) other appurtenances.

(V) *The Cowans Ford development consists of the following existing facilities:* (1) The Cowans Ford dam consisting of: (a) A 3,535-foot-long embankment; (b) a 209.5-foot-long gravity bulkhead; (c) a 465-foot-long concrete ogee spillway with eleven Taintor gates, each 35-feet-wide by 25-feet-high; (d) a 276-foot-long bulkhead; and (e) a 3,924-foot-long earth embankment; (2) a 3,134-foot-long saddle dam (Hicks Crossroads); (3) a 32,339 acre reservoir with a normal water surface elevation of 760 feet above msl; (4) a powerhouse integral to the dam, situated between the spillway and the bulkhead near the right embankment, containing four vertical Kaplan-type turbines directly connected to four generators rated at 83,125 kW for a total installed capacity of 332.5 MW; and (5) other appurtenances.

(VI) *The Mountain Island development consists of the following existing facilities:* (1) The Mountain Island dam consisting of: (a) A 997-foot-long, 97-foot-high uncontrolled concrete gravity ogee spillway; (b) a 259-foot-long bulkhead on the left side of the powerhouse; (c) a 200-foot-long bulkhead on the right side of the powerhouse; (d) a 75-foot-long concrete core wall; and (e) a 670-foot-long, 140-foot-high earth embankment; (2) a 3,117 acre reservoir with a normal water surface elevation of 647.5 feet above msl; (3) a powerhouse integral to the dam, situated between the two bulkheads, containing four vertical Francis-type turbines directly connected to four generators rated at 15,000 kW for a total installed capacity of 55.1 MW; and (4) other appurtenances.

(VII) *The Wylie development consists of the following existing facilities:* (1) The Wylie dam consisting of: (a) A 234-foot-long bulkhead; (b) a 790.92-foot-long ogee spillway section that contains 2 controlled sections with a total of eleven Stoney gates, each 45-feet-wide by 30-feet-high, separated by an uncontrolled section with no gates; (c) a 400.92-foot-long bulkhead; and (d) a 1,595-foot-long earth embankment; (2) a 12,177 acre reservoir with a normal water surface elevation of 569.4 feet above msl; (3) a powerhouse integral to the dam, situated between the bulkhead and the spillway near the left bank, containing four vertical Francis-type turbines directly connected to four generators rated at 18,000 kW for a total installed capacity of 69 MW; and (4) other appurtenances.

(VIII) *The Fishing Creek development consists of the following existing facilities:* (1) The Fishing Creek dam consisting of: (a) A 114-foot-long, 97-foot-high uncontrolled concrete ogee spillway; (b) a 1,210-foot-long concrete gravity, ogee spillway with twenty-two Stoney gates, each 45-feet-wide by 25-feet-high; and (c) a 214-foot-long concrete gravity bulkhead structure; (2) a 3,431 acre reservoir with a normal water surface elevation of 417.2 feet above msl; (3) a powerhouse integral to the dam, situated between the gated spillway and the bulkhead structure near the right bank, containing five vertical Francis-type turbines directly connected to five generators two rated at 10,530 kW and three rated at 9,450 kW for a total installed capacity of 48.1 MW; and (4) other appurtenances.

(IX) *The Great Falls-Dearborn development consists of the following existing facilities:* (1) The Great Falls diversion dam consisting of a 1,559-foot-long concrete section; (2) the Dearborn dam consisting of: (a) A 160-foot-long, 103-foot-high, concrete embankment; (b) a 150-foot-long, 103-foot-high intake and bulkhead section; and (c) a 75-foot-long, 103-foot-high bulkhead section; (3) the Great Falls dam consisting of: (a) A 675-foot-long, 103-foot-high concrete embankment situated in front of the Great Falls Powerhouse (and joined to the Dearborn dam embankment); and (b) a 250-foot-long intake section (within the embankment); (4) the Great Falls bypassed spillway and headworks section consisting of: (a) A 446.7-foot-long short concrete bypassed reach uncontrolled spillway with a gated trashway (main spillway); (b) a 583.5-foot-long concrete headworks uncontrolled spillway with 4-foot-high flashboards (canal spillway); and (c) a 262-foot-long concrete headworks

section situated perpendicular to the main spillway and the canal spillway, containing ten opening, each 16-feet-wide; (5) a 353 acre reservoir with a normal water surface elevation of 355.8 feet above msl; (6) two powerhouses separated by a retaining wall, consisting of: (a) Great Falls powerhouse: Containing eight horizontal Francis-type turbines directly connected to eight generators rated at 3,000 kW for an installed capacity of 24.0 MW, and (b) Dearborn powerhouse: containing three vertical Francis-type turbines directly connected to three generators rated at 15;000 kW for an installed capacity of 42.0 MW, for a total installed capacity of 66.0 MW; and (7) other appurtenances.

(X) *The Rocky Creek-Cedar Creek development consists of the following existing facilities:* (1) A U-shaped concrete gravity overflow spillway with (a) A 130-foot-long section (on the east side) that forms a forebay canal to the Cedar Creek powerhouse and contains two Stoney gate, each 45-feet-wide by 25-feet-high; (b) a 1,025-foot-long, 69-foot-high concrete gravity overflow spillway; and (c) a 213-foot-long section (on the west side) that forms the upper end of the forebay canal for the Rocky Creek powerhouse; (2) a 450-foot-long concrete gravity bulkhead section that completes the lower end of the Rocky Creek forebay canal; (3) a 748 acre reservoir with a normal water surface elevation of 284.4 feet above msl; (4) two powerhouses consisting of: (a) Cedar Creek powerhouse (on the east): containing three vertical Francis-type turbines directly connected to three generators, one rated at 15,000 kW, and two rated at 18,000 kW for an installed capacity of 43.0 MW; and (b) Rocky Creek powerhouse (on the west): Containing eight horizontal twin-runner Francis-type turbines directly connected to eight generators, six rated at 3,000 kW and two rated at 4,500 kW for an installed capacity of 25.8 MW, for a total installed capacity of 68.8 MW; and (5) other appurtenances.

(XI) *The Wateree development consists of the following existing facilities:* (1) The Wateree dam consisting of: (a) A 1,450 foot-long uncontrolled concrete gravity ogee spillway; and (b) a 1,370-foot-long earth embankment; (2) a 13,025 acre reservoir with a normal water surface elevation of 225.5 feet above msl; (3) a powerhouse integral to the dam, situated between the spillway and the earth embankment, containing five vertical Francis-type turbines directly connected to five generators, two rated at 17,100 kW and three rated at 18,050 kW for a total installed capacity of 82.0 MW; and (4) other appurtenances.

o. A copy of the application and settlement agreement 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, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. With this notice, we are initiating consultation with the North Carolina State Historic Preservation Officer (SHPO) and the South Carolina SHPO, as required by 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36, CFR, at 800.4.

q. *Procedural schedule and final amendments:* The application will be processed according to the following Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Issue Acceptance or Deficiency Letter: October 2006.

Issue Scoping Document for comments: January 2007.

Notice of application is ready for environmental analysis: April 2007.

Notice of the availability of the draft EIS: October 2007.

Notice of the availability of the final EIS: March 2008.

Ready for Commission's decision on the application: June 2008.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Magalie R. Salas,

Secretary.

[FR Doc. E6–15524 Filed 9–18–06; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[Regional Docket No. V–2005–1, FRL–8220–9]

Clean Air Act Operating Permit Program; Petition for Objection to State Operating Permit for Onyx Environmental Services

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final amended order on petition to object to a title V operating permit.

SUMMARY: This document announces that the EPA Administrator has responded to a citizen petition asking EPA to object to a Clean Air Act (Act) title V operating permit proposed by the Illinois Environmental Protection Agency (IEPA). Specifically, the Administrator has partially granted and partially denied the petition submitted by the Sierra Club and American Bottom Conservancy to object to the proposed operating permit for Onyx Environmental Services. EPA originally responded to the petition in an order dated February 1, 2006. However, EPA has become aware of a factual error in the February 1, 2006, order. To correct that error, on August 9, 2006, the Administrator signed an order amending the February 1, 2006, order by striking out the section entitled "VI. Monitoring", and replacing it with the language as described below. The remainder of the February 1, 2006, order remains undisturbed and in effect.

Pursuant to section 505(b)(2) of the Act, a petitioner may seek in the United States Court of Appeals for the appropriate circuit judicial review of those portions of the petition which EPA denied. Any petition for review shall be filed within 60 days from the date a notice appears in the **Federal Register**, pursuant to section 307 of the Act.

ADDRESSES: You may review copies of the final amended order, the petitions, and other supporting information at the EPA Region 5 Office, 77 West Jackson Boulevard, Chicago, Illinois 60604. If you wish to examine these documents, you should make an appointment at least 24 hours before visiting day. Additionally, the final order for Onyx Environmental Services is available electronically at: *http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitiondb2004.htm.*

FOR FURTHER INFORMATION CONTACT: Pamela Blakley, Chief, Air Permitting Section, Air Programs Branch, Air and Radiation Division, EPA, Region 5, 77

West Jackson Boulevard, Chicago, Illinois 60604, telephone (312) 886–4447.

SUPPLEMENTARY INFORMATION: The Act affords EPA a 45-day period to review, and to object to as appropriate, a title V operating permit proposed by a state permitting authority. Section 505(b)(2) of the Act, 42 U.S.C. 7661d(b)(2), authorizes any person to petition the EPA Administrator within 60 days after the expiration of the EPA review period to object to a title V operating permit if EPA has not done so. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period, unless the petitioner demonstrates that it was impracticable to raise the issues during the comment period, or the grounds for the issues arose after the public comment period.

On February 18, 2004, the EPA received from the Sierra Club and American Bottom Conservancy a petition requesting that EPA object to the proposed title V operating permit for Onyx Environmental Services. The Sierra Club and American Bottom Conservancy alleged that the proposed permit (1) Violated EPA's commitments and obligations to address environmental justice issues; (2) lacked a compliance schedule and certification of compliance; (3) did not address modifications Onyx took that allegedly triggered new source review requirements; (4) was based on an eight-year old application; (5) lacked practically enforceable conditions; (6) contained a permit shield that broadly insulates it from ongoing and recent violations; (7) failed to include conditions that meet the legal requirements for monitoring; (8) did not contain a statement of basis; (9) did not require prompt reporting of violations; and (10) failed to establish annual mercury and lead limits.

On February 1, 2006, the Administrator signed an order partially granting and partially denying the petition. The order explains the reasons behind EPA's conclusion that the IEPA must: (1) Address the significant comments concerning the possible need for a compliance schedule in the proposed permit; (2) require Onyx Environmental Services to submit a current compliance certification; (3) address comments concerning modifications made at the Onyx facility and the potential applicability of new source review requirements; (4) require Onyx Environmental Services to submit an updated application that reflects all applicable requirements for the source; (5) make clear either in the permit or statement of basis what constitutes "normal" operating conditions; (6) amend the permit to limit Onyx Environmental Service's election to regulatory requirements applicable to hazardous waste incinerators; (7) define the terms "container" and "containerized solids," or explain in the statement of basis where the terms are defined; (8) provide information on where the applicable specifications pertaining to "manufacturer's specifications" can be located; (9) provide a statement of basis that complies with the requirements of EPA regulations and post its statement of basis on a Web site, or make available to the public on the Web site a notice telling the public where it can obtain the statement of basis; and (10) explain how a thirty day reporting requirement for all deviations is prompt or require a shorter reporting period for deviations as is provided for in 40 CFR Part 71. The order also explains the reasons for denying Sierra Club and American Bottom Conservancy's remaining claims.

The August 9, 2006, amended order grants the petition for the claim that the permit lacks monitoring required under other provisions of 40 CFR Part 70.6. EPA directs IEPA to revise the permit to incorporate all particulate matter monitoring required for the facility under 40 CFR Part 63, Subpart EEE, including a leak detection system.

Dated: September 12, 2006.

Norman Niedergang,

Acting Regional Administrator, Region 5.

[FR Doc. E6–15537 Filed 9–18–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[IL227–1; FRL–8220–8]

Notice of Prevention of Significant Deterioration Final Determination for Prairie State Generating Company

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final action.

SUMMARY: This notice announces that on August 24, 2006, the Environmental Appeals Board (EAB) of the EPA denied a petition for review of a Federal Prevention of Significant Deterioration (PSD) permit issued to Prairie State Generating Company by the Illinois Environmental Protection Agency (IEPA).

DATES: The effective date for the EAB's decision is August 24, 2006. Pursuant to Section 307(b)(1) of the Clean Air Act, 42 U.S.C. 7607(b)(1), judicial review of this permit decision, to the extent it is available, may be sought by filing a petition for review in the United States Court of Appeals for the Seventh Circuit within 60 days of September 19, 2006.

ADDRESSES: The documents relevant to the above action are available for public inspection during normal business hours at the following address: Environmental Protection Agency, Region 5, 77 West Jackson Boulevard (AR–18J), Chicago, Illinois 60604. To arrange viewing of these documents, call Genevieve Damico at (312) 353–4761.

FOR FURTHER INFORMATION CONTACT: Genevieve Damico, Air and Radiation Division, Air Programs Branch, Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard (AR–18J), Chicago, Illinois 60604. Anyone who wishes to review the EAB decision can obtain it at *http://www.epa.gov/eab/*.

Notification of EAB Final Decision

The IEPA, acting under authority of a PSD delegation agreement, issued a PSD permit to Prairie State Generating Company on April 28, 2005, granting approval to construct two coal-fired steam electric generating units, each with a nominal generating capacity of 750 net megawatts in Washington County, Illinois. The American Bottom Conservancy, American Lung Association of Metropolitan Chicago, Clean Air Task Force, Health and Environmental Justice-St. Louis, Lake County Conservation Alliance, Sierra Club and Valley Watch filed a petition for review with the EAB on June 8, 2005. The EAB denied review of the petition on August 24, 2006. The permit became effective on August 24, 2006.

Dated: September 11, 2006.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. E6–15538 Filed 9–18–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8095–5]

Temporary Changes to the EPA Docket Center Public Reading Room

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Docket Center (EPA/DC) Public Reading Room in Washington, DC will be temporarily inaccessible to the public due to

construction starting on September 22, 2006. This notice provides information regarding submitting comments and accessing affected dockets during this period.

FOR FURTHER INFORMATION CONTACT: Minh-Hai Tran-Lam, Mail code 2822T, Office of Information Collection, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 566–1647; fax number: (202) 566–1639; e-mail address: *Tran-Lam.Minh-Hai@epa.gov.*

SUPPLEMENTARY INFORMATION: Dockets, Electronic Dockets, and Information Centers serve as the repository for information related to particular Agency actions. Regulations.gov serves as EPA's electronic public docket and on-line comment system. If you would like to submit an electronic comment or obtain docket materials for an EPA docket, please visit *http://www.regulations.gov.*

As of September 22, 2006, the EPA Docket Center (EPA/DC) Public Reading Room will be temporarily inaccessible to the public until November 6, 2006, due to construction. Public access to docket materials will still be provided. We strongly encourage you to visit the EPA Docket website at *http://www.epa.gov/epahome/dockets.htm* in order to receive the latest status concerning the Public Reading Room and public access to docket materials.

If you wish to obtain materials from a docket in the EPA/DC, please go first to *http://www.regulations.gov* and obtain electronic copies. If the materials are listed in the docket index but the documents themselves are not available in regulations.gov, please call (202) 566–1744 or e-mail the applicable Program Office Docket from the list provided below.

EPA Docket Center operations will still continue during this period. In addition to electronic access through regulations.gov, public inspection of docket materials will be available by appointment during this period. Appointments may be made by calling (202) 566–1744 or by e-mailing the appropriate Docket Office listed below.

If you wish to hand deliver comments during this period, you may drop them off between the hours of 8:30 a.m. and 4:30 p.m. eastern standard time (e.s.t.), Monday through Friday, excluding Federal holidays at the EPA Headquarters, Room 6146F in the EPA West Building located at 1301 Constitution Avenue, NW., Washington, DC. EPA visitors are required to show photographic identification and sign the EPA visitor log. After processing through the X-ray and magnetometer machines, visitors will be given an EPA/DC badge that must be visible at all times, and be escorted to Room 6146F to drop off comments.

- Office of Air and Radiation (OAR) Docket -- *E-mail: a-and-r-Docket@epa.gov.*
- Office of Enforcement and Compliance Assurance (OECA) Docket -- *E-mail: docket.oeca@epa.gov.*
- Office of Environmental Information (OEI) Docket (includes Toxics Release Inventory (TRI) Docket) -- *E-mail: oei.docket@epa.gov.*
- Office of Pollution Prevention and Toxics (OPPT) Docket -- *E-mail: oppt.ncic@epa.gov.*
- Office of Research and Development (ORD) Docket -- *E-mail: ord.docket@epa.gov.*
- Office of Solid Waste and Emergency Response (OSWER)
  -- Resource Conservation and Recovery Act (RCRA) Docket -- *E-mail: rcra-docket@epa.gov.*
  -- Superfund Docket -- *E-mail: superfund.docket@epa.gov.*
  -- Underground Storage Tanks (UST) Docket -- *E-mail: rcra-docket@epa.gov.*
- Office of Water (OW) Docket -- *E-mail: OW-Docket@epa.gov.*

If you have any other questions concerning the temporary closing of the EPA/DC Public Reading Room, you may call (202) 566–1744 between the hours of 8:30 a.m. and 4:30 p.m. e.s.t.

List of Subjects

Environmental protection.

Dated: September 14, 2006.

Mark Luttner,

Director, Office of Information Collection, Office of Environmental Information.

[FR Doc. 06–7781 Filed 9–15–06; 12:58 pm]

BILLING CODE 6560–50–S

COUNCIL ON ENVIRONMENTAL QUALITY

The National Environmental Policy Act—Guidance on Categorical Exclusions

AGENCY: Council on Environmental Quality.

ACTION: Notice and request for comments.

SUMMARY: The Council on Environmental Quality (CEQ) used an interagency work group to develop guidance to Federal agencies for establishing and for using categorical exclusions in meeting their responsibilities under the National Environmental Policy Act (NEPA). CEQ invites comments on the proposed guidance before issuing the final guidance to the heads of the Federal agencies. The proposed guidance, "Establishing, Revising, and Using Categorical Exclusions under the National Environmental Policy Act", is reprinted below and is also available at *http://www.NEPA.gov* in the Current Developments section.

DATES: Written comments should be submitted on or before October 27, 2006.

ADDRESSES: Electronic or facsimile comments on the proposed guidance are preferred because Federal offices experience intermittent mail delays from security screening. Electronic comments can be sent to NEPA Modernization (CE) at *hgreczmiel@ceq.eop.gov.* Written comments may be faxed to NEPA Modernization (CE) at (202) 456–0753. Written comments may also be submitted to NEPA Modernization (CE), Attn: Associate Director for NEPA Oversight, 722 Jackson Place NW., Washington DC 20503.

FOR FURTHER INFORMATION CONTACT: Horst Greczmiel, 202–395–5750.

SUPPLEMENTARY INFORMATION: The Council on Environmental Quality (CEQ) established a National Environmental Policy Act (NEPA) Task Force and is now implementing recommendations designed to modernize the implementation of NEPA and make the NEPA process more effective and efficient. Additional information is available on the task force Web site at *http://ceq.eh.doe.gov/ntf.*

The proposed guidance, "Establishing, Revising, and Using Categorical Exclusions under the National Environmental Policy Act," was developed to assist agencies with developing and using categorical exclusions for actions that do not have significant effects on the human environment and eliminate the need for unnecessary paperwork and effort under NEPA for categories of actions that normally do not warrant preparation of an environmental impact statement (EIS) or environmental assessment (EA). Developing and using appropriate categorical exclusions promotes the cost-effective use of agency NEPA related resources. CEQ requests public input and comments on the following proposed guidance:

Establishing, Revising, and Using Categorical Exclusions under the National Environmental Policy Act.

I. Introduction

The following guidance is provided to assist Federal agencies in improving and

modernizing their administration of categorical exclusions under NEPA. The guidance recommends procedures and approaches for establishing and revising categorical exclusions; involving the public; documenting development, revision, and use of categorical exclusions; and periodically reviewing categorical exclusions.

The CEQ regulations define categorical exclusion in 40 CFR 1508.4:

> "Categorical exclusion" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations (§ 1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. * * * Any procedures under this section shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect.

CEQ established the CEQ NEPA Task Force to review NEPA implementation and identify opportunities to improve and modernize the NEPA process. To promote consistent categorical exclusion development and use, the CEQ NEPA Task Force recommended that CEQ issue clarifying guidance on categorical exclusions.[1] This guidance is based on existing CEQ regulations and guidance, legal precedent, and agency NEPA experience. In keeping with CEQ regulations at 40 CFR 1507.1, the intent of this guidance is to allow agencies flexibility in implementing the procedures for categorical exclusions that are adapted to the requirements of other applicable laws.

II. The Purpose of Establishing New Categorical Exclusions[2]

The purpose of a categorical exclusion is to eliminate the need for unnecessary paperwork and effort under NEPA for categories of actions that normally do not warrant preparation of an environmental impact statement (EIS) or environmental assessment (EA).[3] Developing appropriate categorical exclusions promotes the cost-effective use of agency NEPA related resources. Federal agency personnel should develop a categorical exclusion when they identify a class of actions without significant environmental impacts. A Federal agency should also consider developing categorical exclusions to respond to changes in mission or responsibilities as the agency gains experience with the new activities and their environmental consequences.[4]

Revision of an existing categorical exclusion can promote efficiency by clarifying the actions that are covered by an existing categorical exclusion. For example, a Federal agency may find that an existing categorical exclusion is not being used because the category of actions is too narrowly defined. In such cases, the agency should consider expanding the category of actions. Conversely, if an agency finds that an existing categorical exclusion includes actions that are regularly found to require additional NEPA analysis, then the agency should revise the categorical exclusion to limit the category of actions included.

III. Substantiating a New Categorical Exclusion

A key issue confronting Federal agencies is how to evaluate whether a proposed categorical exclusion is appropriate and how to support the determination that it describes a category of actions that do not individually or cumulatively have a significant effect on the human environment.[5] The information that supports establishing a categorical exclusion should demonstrate how the agency determined that the proposed categorical exclusion does not typically result in significant environmental effects and set forth the methodology and any criteria used to define the proposed category of actions.

A. The Elements of a Categorical Exclusion

The text of a proposed categorical exclusion should clearly define the category of actions as well as any physical or environmental factors that would constrain its use. An example of a physical constraint is a limit on the extent of the action (e.g., miles). Examples of environmental constraints are limits on where and under what conditions the categorical exclusion may be used (e.g., particular seasons in habitat areas). Federal agencies should also consider the opportunity to develop categorical exclusions that are limited in their application to regions or areas of the country where it can demonstrate that the actions do not present significant impacts based on the similarity of environmental settings.

When developing a categorical exclusion, the Federal agency must make certain that the proposed category clearly describes all the actions that should be included. Categorical exclusions should not be established in a disaggregated or segmented format simply to circumvent the evaluation of environmental effects required for NEPA compliance through an EA or EIS.

A Federal agency's NEPA procedures for categorical exclusions must provide for extraordinary circumstances.[6] Extraordinary circumstances function to identify the atypical situation or environmental setting where an otherwise excluded action merits further analysis and documentation in an EA or an EIS. For many agencies, their existing extraordinary circumstances provisions (often presented as a list) will suffice. However, an agency may develop extraordinary circumstances that specifically relate to the new categorical exclusion and propose them in conjunction with the categorical exclusion.

B. Gathering Information To Substantiate a Categorical Exclusion

CEQ guidance generally addresses establishing categorical exclusions.

> Section 1507 of the CEQ regulations directs Federal agencies when establishing implementing procedures to identify those actions which experience has indicated will not have a significant environmental effect and to categorically exclude them * * *[7]

Various sources of information relevant to the action and its environmental effects may be used to substantiate a categorical exclusion including but not limited to evaluation of implemented actions, impact demonstration projects, information from professional staff and expert opinion or scientific analyses, and others' experiences (benchmarking).[8]

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[1] Council on Environmental Quality, "The NEPA Task Force Report to the Council on Environmental Quality—Modernizing NEPA Implementation", (Sept. 2003), available at *http://www.ceq.eh.doe.gov/ntf.*

[2] This guidance applies to establishing new or revised categorical exclusions, and uses the term "new" to include revisions of categorical exclusions that are more than administrative (e.g., revise to update outdated office or agency title) or editorial (e.g., correct spelling or typographical errors).

[3] 40 CFR 1500.4(p) and 1500.5(k).

[4] When legislative or administrative restructuring creates a new agency or realigns an existing agency, the agency may need to develop new NEPA procedures that include categorical exclusions.

[5] 40 CFR 1508.7, 1508.8, and 1508.27.

[6] 40 CFR 1508.4.

[7] Council on Environmental Quality, "Guidance Regarding NEPA Regulations," 48 FR 34263 (July 28, 1983), available at *http://www.nepa.gov/nepa/regs/1983/1983guid.htm.*

[8] Agencies should be mindful of their obligations under the Information Quality Act to ensure the quality, objectivity, utility, and integrity of the information they use or disseminate as the basis of an agency decision to establish a new categorical exclusion. Section 515, Public Law 106–554; Office of Management and Budget Information Quality Guidelines, 67 FR 8452 (Feb. 22, 2002), available at *http://www.whitehouse.gov/omb/inforeg/infopoltech.html.* Additional laws and regulations establish obligations that apply or may apply to the processes of establishing and applying categorical exclusions, such as the Federal Records Act; these are beyond the scope of this guidance.

Sources with substantial similarities to the proposed categorical exclusion will prove to be the most useful. Substantiating information should account for similarities and differences relative to the proposed categorical exclusion in terms of the scope of actions, methods of implementation, and environmental settings. The Federal agency should maintain an administrative record that includes all sources of information used and related findings. The agency should also summarize that information and the related findings in the **Federal Register** publication of the proposed categorical exclusion.

1. Evaluating an Agency's Implemented Actions

Evaluation of implemented actions, as used in this guidance, refers to monitoring and evaluating the environmental effects of the Federal agency's completed or ongoing actions. The benefit of evaluating an agency's own actions is that the implementation and operating procedures are in place and well known. The evaluation should include data collected before the proposed categorical exclusion is finalized. Collaboratively monitoring and evaluating implemented actions with non-federal entities can provide useful information for substantiating a categorical exclusion.

For a category of actions that the agency analyzed in EAs that supported Findings of No Significant Impact (FONSIs), evaluations can validate the predicted environmental effects, and provide strong support for a proposed categorical exclusion. Evaluation of implemented actions analyzed in an EIS may also be used to substantiate a categorical exclusion for activities. An EIS can be used when the action is minor, subordinate to and not dependent upon other actions. An EIS can also be used when it analyzes both a large management action and a smaller, independent action.

Finally, Federal agencies with an Environmental Management System (EMS) may be able to use data generated through their EMS.[9] An EMS may provide a record of environmental performance and help identify actions that should be included in a proposed categorical exclusion or proposed extraordinary circumstances.

[9] An EMS provides a systematic framework for a Federal agency to monitor and continually improve its environmental performance through audits, evaluation of legal and other requirements, and management reviews.

2. Impact Demonstration Projects

As used in this guidance, the term impact demonstration project describes a project that includes the NEPA analysis of a proposed action (for which the agency does not have extensive experience), implementation of the action, and evaluation of the environmental effects of the action. The NEPA documentation prepared for the demonstration project should explain that one of the purposes of the NEPA process is to generate analyses for substantiating a proposed categorical exclusion.

In designing an impact demonstration project it is particularly important that the action being evaluated accurately reflect the category of actions described in the proposed categorical exclusion and that the action is implemented under similar operational and environmental conditions as in the proposed categorical exclusion. Several projects may be useful when environmental conditions vary in different regions where the categorical exclusion would be used.

3. Professional Staff and Expert Opinions, and Scientific Analyses

A Federal agency may use their professional staff and outside expert opinions as a valid source of information to substantiate a categorical exclusion. Those individuals should have special knowledge, training, experience, or understanding relevant to implementation of the actions described in the proposed categorical exclusion and the environmental effects of the action. The agency record should include such individuals' credentials (e.g., education, training, certifications, years of related experience).

The use of scientific analyses need not be limited to peer-reviewed findings and may also include professional opinions, reports, and research findings. However, because the reliability of scientific information varies according to its source and the rigor with which it was developed, the Federal agency remains responsible for determining whether the information in question reflects accepted knowledge or findings and addresses the effects of the actions included in the proposed categorical exclusion.

4. Benchmarking Public and Private Entities' Experiences

As used in this guidance, the term benchmarking means using information and records from other private and public entities' experience with similar actions. When evaluating whether it is appropriate to rely on others' experience, it will be necessary to demonstrate that the categorically excluded actions and their environmental effects are comparable to the category of actions in the proposed categorical exclusion. Benchmarking should consider the similarities and differences in: (1) Methods of implementing the actions; (2) characteristics of the actions; (3) frequency of the actions; (4) applicable standard operating procedures or implementing guidance; and (5) environmental settings in which the actions take place. Although an agency cannot simply use another agency's categorical exclusion for a proposed action, a Federal agency may find it useful to consider another Federal agency's experience and supporting information involving categorically excluded actions.

C. Refining a Proposed New Categorical Exclusion

If a proposed categorical exclusion is found to have a potentially significant effect, the Federal agency should either drop consideration of the categorical exclusion or consider refining it. Examples include: limiting or removing actions included in the proposed categorical exclusion; adding text that places additional constraints on the use of the categorical exclusion; or refining the applicable extraordinary circumstances.

Federal agencies may also consider limiting the geographic applicability of the categorical exclusion. For example, if the category of actions is typically without significant effects in the northeastern United States or in a particular set of watersheds, it may be appropriate to establish a regional or spatially-based categorical exclusion.

Furthermore, when developing a new categorical exclusion, it may be helpful or necessary to identify extraordinary circumstances specifically tailored for that categorical exclusion. Such tailoring would facilitate identifying atypical circumstances and further ensure that the use of the categorical exclusion would typically not result in individual or cumulative significant environmental effects.

IV. Procedures for Establishing a New Categorical Exclusion

The process of establishing or revising an agency's NEPA procedures, as distinguished from explanatory guidance, is found in 40 CFR 1507.3(a).

Each agency shall consult with the Council while developing its procedures and before publishing them in the **Federal Register** for comment. Agencies with similar procedures should consult with each other and the

Council to coordinate their procedures, especially for programs requesting similar information from applicants. The procedures shall be adopted only after an opportunity for public review and after review by the Council for conformity with the Act and these regulations [40 CFR parts 1500—1508]. The Council shall complete its review within 30 days. Once in effect they shall be filed with the Council and made readily available to the public. Agencies are encouraged to publish explanatory guidance for these regulations and their own procedures. Agencies shall continue to review their policies and procedures and in consultation with the Council to revise them as necessary to ensure full compliance with the purposes and provisions of the Act.

Federal agencies are encouraged to involve CEQ early in the process to take advantage of CEQ expertise and assist in coordinating with other agencies to make the process as efficient as possible. Federal agencies should consult with CEQ on both the proposed categorical exclusion and the final categorical exclusion.[10]

Any proposed categorical exclusion must be made available for public review and comment. At a minimum, the CEQ regulations require Federal agencies to publish the proposed categorical exclusion in the **Federal Register** and provide a period during which the public may submit comments on the proposal.[11] Federal agencies are encouraged to maintain a file of the comments and responses. To maximize the value of input from interested parties and assist them in focusing their comments, the agency should make information supporting the categorical exclusion available to the public.

Following the public comment period, the Federal agency should consult with CEQ and review the nature of any substantive comments received and how they were addressed. For consultation to successfully conclude, CEQ must provide a written statement that the final proposed categorical exclusion was developed in conformity with NEPA and the CEQ regulations. CEQ must complete its review within 30 days of receiving the final text of the proposed categorical exclusion.

The final categorical exclusion must then be published in the **Federal Register.** This publication can serve to satisfy the requirements that the agency file the categorical exclusion with CEQ, and make it readily available to the public.

The following recommended and required steps establish a categorical exclusion as part of the agency NEPA procedures, regardless of the format the agency uses for its NEPA procedures:[12]

1. Draft proposed categorical exclusion based on experience indicated in supporting information.
2. Consult with CEQ on draft of proposed categorical exclusion.
3. Consult other Federal agencies with similar procedures, jurisdiction by law, or special expertise regarding the category of activities and their effects.
4. Publish notice of proposed categorical exclusion in the **Federal Register** for public review and comment.
5. Consider public comments in developing final categorical exclusion.
6. Consult with CEQ on final categorical exclusion to obtain determination of conformity with NEPA and the CEQ regulations.
7. Publish final categorical exclusion in the **Federal Register.**
8. File final categorical exclusion with CEQ.
9. Make final categorical exclusion readily available to the public.

V. Public Involvement in Establishing a Categorical Exclusion

A NEPA process is not required for establishing or revising agency NEPA procedures.[13] However, engaging the public in the environmental aspects of Federal decisionmaking is a key aspect of NEPA and an opportunity for public involvement beyond publication in the **Federal Register** for review and comment should be considered.[14] The **Federal Register** notice requesting comment on the proposed categorical exclusion should:

- Describe the proposed categorical exclusion and provide the proposed text.
- Summarize the agency rationale and history for its development and advise the public on how to access the agency's supporting information and, whenever practicable, include a link to a Web site containing the supporting information.[15]
- Define all applicable terms.
- Summarize how the proposed categorical exclusion fits into the existing agency NEPA implementation process.
- Explain how extraordinary circumstances, and possibly other factors such as connected actions and cumulative impacts, may limit the use of the categorical exclusion.
- Explain available avenues for public comment and feedback on the proposed categorical exclusion.

When establishing a categorical exclusion the Federal agency should tailor the type and length of the public involvement to the nature of the proposed category of actions and its perceived environmental effects. CEQ encourages Federal agencies to engage interested parties such as public interest groups, Federal NEPA contacts at other agencies, consultants, and Tribal, State, and local government agencies to share relevant data, information and concerns. The methods noted in 40 CFR 1506.6 and other public involvement techniques such as focus groups, meetings, e-mail exchanges, conference calls, and Web-based forums can be used to stimulate public involvement.

VI. Using an Established Categorical Exclusion

The CEQ regulations do not address documentation or public involvement for using a categorical exclusion. CEQ guidance states:

> "(T)he Council believes that sufficient information will usually be available during the course of normal project development to determine the need for an EIS and further that the agency's administrative record will clearly document the basis for its decision. Accordingly, the Council strongly discourages procedures that would require the preparation of additional paperwork to document that an activity has been categorically excluded.[16]

A. Documentation

Each Federal agency should decide if a categorical exclusion determination warrants preparing additional paperwork and, if so, how much documentation is appropriate. Documentation is an important component of any adequate administrative record. The extent of the documentation should be related to the type of action involved, the potential for extraordinary circumstances, and compliance with other laws, regulations, and policies.

A Federal agency may decide to create a concise record for an action where

[10] 40 CFR 1507.3.

[11] 40 CFR 1507.3 and 1506.6(b)(2).

[12] NEPA and the CEQ regulations do not require agency NEPA implementing procedures to be promulgated as regulations through formal rulemaking; therefore the rulemaking process is not described herein. Agencies that use rulemaking should ensure they comply with all appropriate requirements.

[13] *Heartwood, Inc.* v. *U.S. Forest Service,* 73 F. Supp. 2d 962, 972–73 (S.D. Ill. 1999), aff'd, 230 F.3d 947, 954–56 (7th Cir. 2000).

[14] "Agencies shall: (a) Make diligent efforts to involve the public in preparing and implementing their NEPA procedures." 40 CFR 1506.6.

[15] Ready access to all supporting information may minimize the need for members of the public to depend on Freedom of Information Act requests and enhance the NEPA goals of outreach and disclosure.

[16] Council on Environmental Quality, "Guidance Regarding NEPA Regulations", 48 FR 34263 (July 28, 1983), available at *http://www.nepa.gov/nepa/regs/1983/1983guid.htm.*

there are reasonable questions regarding the existence of extraordinary circumstances that may create the potential for the use of the categorical exclusion to be questioned. If a record is prepared, it should cite the categorical exclusion used and show that the agency considered: (1) How the action fits within the class of actions described in the categorical exclusion, and (2) whether there are any extraordinary circumstances that would preclude the project or proposed action from qualifying as a categorically excluded action.

Some courts have required documentation to demonstrate that a Federal agency has considered extraordinary circumstances in cases where the absence of extraordinary circumstances is not obvious.[17] Documenting the use of a categorical exclusion facilitates judicial review under the Administrative Procedure Act, which requires review to be based upon a pre-existing record.[18]

Using a categorical exclusion does not absolve Federal agencies from complying with the requirements of other laws, regulations, and policies. Documentation created for individual actions or projects may be necessary to comply with such requirements. When that is the case, all resource analyses and the results of any consultations or coordination (e.g., under Endangered Species Act or National Historic Preservation Act), should be included or incorporated by reference in the administrative record for the action.

B. Public Involvement

Most Federal agencies do not routinely notify the public when they use a categorical exclusion to meet their NEPA responsibilities. In situations where there is a high public interest in an action that will be categorically excluded, CEQ encourages Federal agencies to involve the public in some manner (e.g., notification, scoping), particularly when the public can assist the agency in determining whether a proposal involves extraordinary circumstances or cumulative impacts.

VII. Periodic Review of Categorical Exclusions

The CEQ regulations direct Federal agencies to periodically review their policies and procedures; however, they do not describe how such a review should be conducted.[19] CEQ encourages Federal agencies to develop procedures for identifying and revising categorical exclusions that no longer effectively reflect current environmental circumstances or where agency procedures, programs, or missions have changed.

A Federal agency can keep a record of its experience by tracking information provided by agency field offices.[20] In such cases, a Federal agency review of a categorical exclusion could consist of e-mails, memos, and letters from field offices that include observations of the effects of implemented actions, and public input on actions and their environmental effects.

Another approach to reviewing existing categorical exclusions is through a program review. Program reviews can occur at various levels (e.g., field office, division office, headquarters office) and on various scales (e.g., geographic location, project type, or as a result of an interagency agreement). While a Federal agency may choose to initiate a program review that specifically focuses on categorical exclusions, it is possible that program reviews with a different focus may also be able to provide documentation of experience relevant to a categorical exclusion.

There are many good reasons why Federal agencies should perform categorical exclusion reviews. They can serve as the impetus for expanding the categorical exclusion to include actions not previously categorically excluded. They may help identify additional extraordinary circumstances. Categorical exclusion reviews may also help a Federal agency consider the appropriate documentation when using certain categorical exclusions.

Finally, the rationale and supporting information for establishing or documenting experience with using a categorical exclusion can be lost when there are inadequate systems and procedures for recording, retrieving, and preserving agency documents and administrative records. Therefore, Federal agencies may benefit from a review of current practices used for maintaining and preserving such records. Measures to ensure future availability may include, but not be limited to, redundant storage systems (e.g., multiple drives, paper copies), and improvements in the agency electronic and hard copy filing and retrieval systems.[21]

Public comments are requested on or before October 27, 2006.

Dated: September 14, 2006.

James L. Connaughton,

Chairman, Council on Environmental Quality.

[FR Doc. 06–7756 Filed 9–18–06; 8:45 am]

BILLING CODE 3125–W6–P

[17] Council on Environmental Quality, "The NEPA Task Force Report to the Council on Environmental Quality—Modernizing NEPA Implementation," p. 58 (Sept. 2003), available at *http://www.ceq.eh.doe.gov/ntf.*

[18] The agency determination that an action is categorically excluded may be challenged under the Administrative Procedures Act. 5 U.S.C. 702 *et seq.*

[19] 40 CFR 1506.6.

[20] Council on Environmental Quality, "The NEPA Task Force Report to the Council on Environmental Quality—Modernizing NEPA Implementation", p. 63, (Sept. 2003), available at *http://www.ceq.eh.doe.gov/ntf.*

[21] Council on Environmental Quality, "The NEPA Task Force Report to the Council on Environmental Quality—Modernizing NEPA Implementation", p. 63, (Sept. 2003), available at *http://www.ceq.eh.doe.gov/ntf.*

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/.*

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 13, 2006.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. RBC Centura Banks, Inc.,, Raleigh, North Carolina, and its parent companies, Royal Bank of Canada, Montreal, Quebec; Royal Bank Holding Inc., Toronto, Ontario; RBC Holdings (USA) Inc., New York, New York; RBC USA Holdco Corporation, New York, New York; RBC Holdings (Delaware) Inc., Wilmington, Delaware; Prism Financial Corporation, Chicago, Illinois; and FLAG Acquisition Sub, Inc., Rocky Mount, North Carolina; to acquire 100 percent of the voting shares of FLAG Financial Corporation, Atlanta, Georgia, and thereby indirectly acquire FLAG Bank, Atlanta, Georgia.

Board of Governors of the Federal Reserve System, September 14, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–15549 Filed 9–18–06; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

SES Performance Review Board

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given of the appointment of members to the FTC Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Georgia Koliopoulos, Director of Human Resources, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2364.

SUPPLEMENTARY INFORMATION: Publication of the Performance Review Board (PRB) membership is required by 5 U.S.C. 4314(c)(4). The PRB reviews and evaluates the initial appraisal of a senior executive's performance by the supervisor, and makes recommendations regarding performance ratings, performance awards, and pay-for-performance pay adjustments to the Chairman.

The following individuals have been designated to serve on the Commission's Performance Review Board:

Charles H. Schneider, Executive Director, Chairman;

Jeffrey Schmidt, Director, Bureau of Competition;

Lydia B. Parnes, Director, Bureau of Consumer Protection;

William Blumenthal, General Counsel;

Pauline M. Ippolito, Associate Director, Bureau of Economics.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E6–15541 Filed 9–18–06; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Availability of Funds for Cooperative Agreement To Provide Technical Assistance and Support to the Afghan Ministry of Public Health (MOPH) in Strengthening the Management of the Women's and Children's Hospitals in Kabul, Afghanistan

AGENCY: Office of Global Health Affairs, Office of the Secretary, Department of Health and Human Services (DHHS).

ACTION: Notice.

Announcement Type: Single Eligibility—FY 2006 Initial Announcement.

Funding Opportunity Number: OGHA 06–025.

GSA Catalog Of Federal Domestic Assistance: 93.017.

KEY DATES: September 19, 2006, Application Availability. September 26, 2006, Optional Letter of Intent due by 5 p.m. e.t. October 4, 2006, Applications due by 5 p.m. e.t.

SUMMARY: In partnership with the Afghan Ministry of Public Health (MOPH), the Office of Global Health Affairs (OGHA) within the U.S. Department of Health and Human Services (HHS), announces that up to $1,750,000 in Fiscal Year (FY) 2006 funds is available for ONE (1) cooperative agreement to provide support as a single-source performance-based cooperative agreement to provide the Afghan MOPH with direct support for the development of a regional network of Maternal-Child Care including community health centers, polyclinics and secondary and tertiary hospitals in Kabul for the purpose of coordinating planning and program development. The primary goal of this project is to improve the quality of care at women's and children's health institutions in Afghanistan. HHS/OGHA anticipates substantial HHS scientific and programmatic involvement in the administration of the quality-improvement program. The project will be for a program period of three (3) years, and individual budget periods of one (1) year, for a total of $1,750,000.

I. Funding Opportunity Description

Authority: Department of Health and Human Services Appropriations Act, 2006, Title II, Pub. L. No. 109–149, 119 Stat. 2833, 2844 (2005) and section 103(a)(4)(H) of the Afghan Freedom Support Act , 2002, Pub. L. 107–327, 116 Stat. 2797.

Purposes of the Agreement

HHS, in partnership with other relevant U.S. Government departments and agencies, anticipates involvement in the development, administration and oversight of this program to improve hospital-management capacity within the Afghan MOPH. The program will be for a program period of three (3) years and individual budget periods of one (1) year. Approximately a total of $1,750,000 will be available for the three-year program period.

This cooperative agreement complements and builds upon the work of the Afghan MOPH Hospital Management Task Force (HMTF) and its efforts to implement the Essential Package of Hospital Services (EPHS) and the recommendations of the Joint U. S. Government/Afghan MOPH health-facility management planning team, as outlined above. Implementation and adherence to recognized evidence-based health-care and facility-management standards will be essential elements of a successful proposal.

The primary goal of this project is to organize and establish a seamless and sustainable integration system for the delivery of the full range of quality prenatal, intrapartum, postpartum care, including health promotion, prevention, maintenance and professional care for pregnant women and their neonates. While this agreement is focused on Kabul, the Afghan MOPH has the ultimate goal of implementing this model in other Provinces.

The integration will promote a two-way referral system to originate and end at the community level in the Comprehensive Health Centers and Polyclinics, with appropriate care provided at the secondary- and tertiary-care hospitals in Afghanistan.

This system will ensure the provision of the continuum of care in Kabul, including ambulatory care, acute care, and possibly home care and home visits.

A second goal is to ensure that care at the horizontal level is also appropriate, and that a workable and effective linkage exists between the maternity, newborn and pediatric secondary- and tertiary-care hospitals.

A third goal is to develop an interface between public central, regional and local health systems and the emerging private-sector health sector.

A fourth goal is to develop a mechanism whereby there is a rationalization method that provides for the sharing of care, the consolidation and coordination of clinical care and the joint planning for the future development of maternal, neonate and pediatric care within Kabul City.

In consultation with OGHA, the Afghan MOPH will set the vision and direction for the health system, will outline the priorities, will create the

policies to achieve the vision, and will play the oversight role in both the public and private sectors.

The award recipient will design and implement a formal work plan. This three-year plan will do the following:

- Develop a model for specialized tertiary care in maternal, neonate, and infant care that details the clinical, diagnostic interventions to be provided for high-risk and low-risk maternity, neonate and infant patients;
- Develop a model for tertiary care for children that details the clinical and diagnostic interventions to be provided for infant and child patients and provides supportive supervision in Kabul;
- Identify the administrative and support services;
- List and justify the procurement of essential equipment, supplies and pharmaceuticals;
- Develop a system for equipment management and training;
- Examine the feasibility for sharing of support services, including blood bank, pharmacy and laboratory;
- Establish a business plan for group-purchasing activities, with projected cost savings;
- Assess the clinical and management training needs of personnel to establish and sustain high-quality care;
- Assess competency and train community health workers for the provision of basic care and community-awareness activities;
- Evaluate the feasibility of cooperative education planning within health-care institutions, and universities and the Institute for Health Sciences in Kabul;
- Develop vertical and horizontal referral systems, including protocols and procedures with all appropriate health-care facilities in Kabul to advance the integration of basic, secondary and tertiary specialized care;
- Plan the logistical system needed for rapid response, including transport and communication;
- Plan for development and implementation of a Regional Health Information System in Afghanistan for ensuring vital records and the data management of routine and non-routine maternal-child monitoring-and-evaluation information;
- Identify methods to increase community input into the overall oversight of the hospitals;
- Plan for the development and management of a community advocacy program through the media;
- Create a monitoring-and-evaluation plan for incorporating and implementing standards of care for best practices at all community health centers, polyclinics and secondary- and tertiary-care hospitals in Kabul;
- Conduct a comprehensive evaluation of all required elements and conditions, including outcome measures for effectiveness and efficiency; and
- Create a 24-hour service for ensuring access to appropriate care in Kabul.

The Afghan MOPH will be responsible for preparing any sub-recipient request for application (RFA), conducting the RFA announcement and competition process, awarding the grant(s) and monitoring the grant(s) performance.

II. Award Information

The administrative and funding instrument for this program will be the cooperative agreement, in which HHS will have substantial scientific and/or programmatic involvement during the performance of the project. Under the cooperative agreement, HHS/OGHA will support and/or stimulate awardee activities by working with them in a non-directive partnership role. HHS staff will be substantially involved in the program activities, above and beyond routine monitoring. Through this cooperative agreement, HHS will collaborate in an advisory capacity with the award recipient, especially during the development and implementation of a mutually agreed-upon work plan. HHS will actively participate in periodic progress reviews, and in a final evaluation of the program.

Approximately $1,750,000 in FY 2006 funds is available under the Department of Health and Human Services Appropriations Act, 2006, Title II, Pub. L. No. 109–149, 119 Stat. 2833, 2844 (2005) to support this agreement.

The anticipated start date is September 15, 2006. There will only be one, single award made from this announcement. The project period for this agreement is for three years with individual budget periods of 12 months for a total of $1,750,000.

The award recipient must comply with all HHS management requirements for meeting progress against milestones and for financial reporting for this cooperative agreement. (Please see HHS Activities and Program Evaluation Sections below.)

HHS/OGHA activities for this program are as follows:

- Organize an orientation meeting after the award is made with the award recipient to discuss applicable U.S. Government expectations as stated in this RFA, regulations, policies and key management requirements, as well as report formats and contents.
- Review and approve the award recipient's work plan and detailed budget.
- Review and approve the award recipient's monitoring evaluation plan.
- Conference on a monthly basis with the award recipient to assess monthly expenditures in relation to approved work plan, and modify plans, as necessary.
- Meet on an annual basis with the award recipient to review the progress report for each U.S. Government Fiscal Year.
- Assure experienced HHS or other subject-matter experts from other relevant U.S. Government departments and agencies will participate in the planning, development, implementation, and evaluation of all phases of this project.
- Assist in establishing and maintaining U.S. Government, the Afghan MOPH, and non-governmental organizations (NGOs) contracts and agreements necessary to carry out the program.

Program Evaluation Criteria:

The application must have a comprehensive evaluation plan consistent with the scope, stated goals and objectives and funding level of the project. The evaluation plan should include both a process evaluation to track the implementation of project activities and outcome evaluation criteria.

In addition to conducting internal evaluations, successful applicant must be prepared to participate in external evaluations supported by the Afghan MOPH and HHS. In addition to routine communications with the Afghan MOPH and HHS within 30 days following the end of each quarter, the grantee will submit a written quarterly performance and financial status report of no more than ten pages in length to the Ministry and HHS. At a minimum, quarterly performance reports will include the following:

- A concise summary of the most significant achievements and problems encountered during the reporting period, e.g. a comparison of work progress with objectives established for the quarter against the award recipient's implementation schedule. Where the awardee does not meet objectives, the report must include a statement of cause and a summary of corrective actions.
- Specific action(s) HHS and/or the Afghan MOPH needs to undertake to alleviate obstacles to progress.
- Other pertinent information that will permit overview and evaluation of project operations.

Within 90 days following the end of each project period, the awardee must

submit a final report that contains all required information and data to MOPH and HHS. At minimum, the report will contain the following:

- A summary of the major activities supported under the cooperative agreement, and the major accomplishments that resulted from activities to improve performance.
- An analysis of the project, based on the challenges described in the "Background" Section of the RFA performed prior to or during the project period, including a description of the specific objectives stated in the grant application and the accomplishments and failures that resulted from activities during the grant agreement period. Awardees should place emphasis on indicators and measures of operational efficiency and effectiveness.

III. Eligibility Information

1. Eligible Applicants

This is a single-source, cooperative agreement with the Afghan Ministry of Public Health (MOPH). The U.S. Government remains committed to supporting efforts to improve the health status of women and children, while assisting in the further development of Afghanistan's overall health-care infrastructure. This proposal builds upon the Afghanistan Year 1384 National Development Budget for Health and Nutrition (NDB), which outlines the Afghan Government's spending priorities for the fiscal year. This cooperative agreement will supplement the NDB's current funding support levels which, thereby continues HHS's prior commitments to improve women's and children's health in Afghanistan. It also builds upon the "contracting out" model currently promoted by the MOPH for future support of their facilities, and supports HHS Secretary Michael O. Leavitt's 500-Day Plan to support emerging democracies through health diplomacy. Additionally, this cooperative agreement is a contribution by OGHA to support much-needed efforts to rebuild Afghanistan's health care system, which is under the direct control and governance of the Ministry of Public Health. More specifically, this agreement supports Afghanistan's maternal health care system by improving the capacity of the public health services of the Afghanistan government through the Ministry of Public Health. For these reasons, OGHA has committed to working with the Afghan Minister of Health on the tasks stated in this agreement, which therefore makes this requirement a single-eligibility cooperative agreement.

With funding from the cooperative agreement, the Afghan MOPH will be able to continue to develop the standards and policies for the tertiary-care component of the system or the acute and specialized hospitals that exist for obstetrical/gynecological, neonatal and sick newborns. This funding will permit the Reproductive Health Task Force within the Afghan MOPH to engage the assistance of expertise to support its present multiple activities in developing a sustainable health-care system and support the capacity-building of the Ministry. Though directed primarily at Kabul City, the development of a vertical integration system will eventually serve as a model to replicate in the remaining Afghan Provinces.

2. Cost-Sharing or Matching

Although cost-sharing, matching funds, and cost participation are not a requirement of this agreement, if the applicants receive funding from other sources to underwrite the same or similar activities, or anticipate receiving such funding in the next 12 months, they must detail how the disparate streams of financing complement each other.

3. Other—(If Applicable)

N/A.

IV. Application and Submission Information

1. Address To Request Application Package

This Cooperative Agreement project uses the Application Form HHS Office of Public Health and Science (OPHS) OPHS–1, Revised 8/2004, enclosed in the application packet. Many different programs funded through the HHS Public Health Service (PHS) use this generic form. Some parts of it are not required; the applicant need to fill out other sections in a fashion specific to the program. Instructions for filling out HHS/OPHS–1, Revised 8/2004 will come in the application packet. The applicant may also obtain these forms by downloading from the following Internet addresses: *https://egrants.osophs.dhhs.gov* and clicking on Grant Announcements; or from *http://www.grants.gov/;* or by writing to Ms. Karen Campbell, Director, Office of Grants Management, Office of Public Health and Science, U.S. Department of Health and Human Services, Tower Building, 1101 Wootton Parkway, Suite 550, Rockville, MD 20852; or by contacting the HHS/OPHS Office of Grants Management, at 1–(240) 453–8822. Please specify the HHS/OGHA program(s) for which you are requesting an application kit.

2. Content and Form of Application Submission

Application Materials

A separate budget page is required for each budget year. The applicant must submit with their proposals a line-item budget (SF 424A) with coinciding justification to support each of the budget years. These forms will represent the full project period of Federal assistance requested. HHS/OGHA will reject proposals submitted without a budget and justification for each budget year requested in the application.

The applicant must include in their application a Project Abstract, submitted on 3.5-inch floppy disk. The abstract must be typed, single-spaced, and not exceed two (2) pages. Reviewers and staff will refer frequently to the information contained in the abstract, and therefore it should contain substantive information about the proposed projects in summary form. A list of suggested keywords and a format sheet for your use in preparing the abstract will accompany the application packet.

The applicant must include a Project Narrative in their grant applications. Format requirements are the same as for the "Project Abstract" Section; margins should be one inch at the top and one inch at the bottom and both sides; and typeset must be no smaller than 12 cpi and unreduced. The applicant should type biographical sketches either on the appropriate form or on plain paper and they should not exceed two pages; list only publications directly relevant to this project.

Application Format Requirements

If an applicant is applying on paper, the entire application may not exceed 80 pages in length, including the abstract, project and budget narratives, face page, attachments, any appendices and letters of commitment and support. The applicant must number pages consecutively.

HHS/OGHA will deem non-compliant applications submitted electronically that exceed 80 pages when printed and will return them to the applicant without further consideration.

a. Number of Copies.

If submitting in hard-copy, please submit one (1) original and two (2) unbound copies of the application. Please do not bind or staple the application. Application must be single sided.

b. Font.

Please use an easily readable serif typeface, such as Times Roman, Courier,

or CG Times. The applicant must submit the text and table portions of the application in not less than 12-point and 1.0 line spacing. HHS/OGHA will deem non-compliant applications that do not adhere to the 12-point font requirement.

c. Paper Size and Margins.

For scanning purposes, please submit the application on 8½" x 11" white paper. Margins must be at least one (1) inch at the top, bottom, left and right of the paper. Please left-align text.

d. Numbering.

Please number the pages of the application sequentially from page one (face page) to the end of the application, including charts, figures, tables, and appendices.

e. Names.

Please include the name of the applicant on each page.

f. Section Headings.

Please put all section headings flush left in bold type.

Application Format

An application for funding must consist of the following documents in the following order:

i. Application Face Page

HHS/ PHS Application Form OPHS–1, provided with the application package. Prepare this page according to instructions provided in the form itself.

DUNS Number

All applicant organizations must have a Data Universal Numbering System (DUNS) number to apply for a grant from the Federal Government. The DUNS number is a unique, nine-character identification number provided by the commercial company Dun and Bradstreet. There is no charge to obtain a DUNS number. Information about obtaining a DUNS number is available at the following Internet address: *https://www.dnb.com/product/eupdate/requestOptions.html* or by calling 1–866–705–5711. Please include the DUNS number next to the Office of Management and Budget (OMB) Approval Number on the application face page. HHS/OGHA will not review applications that do not have a DUNS number.

Additionally, the applicant organization must register with the Federal Government's Central Contractor Registry (CCR) to do electronic business with the Federal Government. Information about registering with the CCR is available at the following Internet address: *http://www.hrsa.gov/grants/ccr.htm.*

Finally, the applicant that apply electronically through Grants.gov must register with the Credential Provider for Grants.gov. Information about this requirement is available at.the following Internet address: *http://www.grants.gov/CredentialProvider.*

The applicant that are applying electronically through the HHS/OPHS E-Grants System must register with the provider. Information about this requirement is available at the following Internet address: *https://egrants.osophs.dhhs.gov.*

ii. Table of Contents

Provide a Table of Contents for the remainder of the application (including appendices), with page numbers.

iii. Application Checklist

Application Form HHS/OPHS–1, provided with the application package.

iv. Budget

Application Form HHS/OPHS–1, provided with the application package.

v. Budget Justification

The applicant must enter the amount of financial support (direct costs) they are requesting from the Federal granting agency for the first year on the Face Sheet of Application Form HHS/PHS 5161–1, Line 15a. The application should include funds for electronic-mail capability, unless access to the Internet is already available. The amount of financial support (direct costs) entered on the SF 424 is the amount an applicant is requesting from the Federal granting agency for the project year

Personnel Costs: The applicant should explain their personnel costs by listing each staff member supported from Federal funds, name (if possible), position title, percent full-time equivalency, annual salary, and the exact amount requested.

Fringe Benefits: The applicant must list the components that comprise the fringe benefit rate, for example, health insurance, taxes, unemployment insurance, life insurance, retirement plan, tuition reimbursement. The fringe benefits should be directly proportional to that portion of personnel costs allocated for the project.

Travel: The applicant must list travel costs according to local and long distance travel. For local travel the applicant should outline the mileage rate, number of miles, reason for the travel and the staff member/consumers who will be completing the travel.

Equipment: The applicant must list equipment costs, and provide justification for the need of the equipment to carry out the program's goals. The applicant must provide an extensive justification and a detailed status of current equipment when they request funds for the purchase of computers and furniture items.

Supplies: The applicant must list the items the project will use. In this category, separate office supplies from medical and educational purchases. "Office supplies" could include paper, pencils, and the like; "medical supplies" are syringes, blood tubes, plastic gloves, etc., and "educational supplies" can be pamphlets and educational videotapes. The applicant must list these categories separately.

Subcontracts: To the extent possible, the applicant should standardize all subcontract budgets and justifications, and should present contract budgets by using the same object-class categories contained in the Standard Form 424A. The applicant must provide a clear explanation as to the purpose of each contract, how the organization estimated the costs, and the specific contract deliverables.

Other: The applicant must put all costs that do not fit into any other category into this category, and provide an explanation of each cost in this category.

vi. Staffing Plan and Personnel Requirements

The applicant must present a staffing plan, and provide a justification for the plan that includes education and experience qualifications and the rationale for the amount of time requested for each staff position. The applicant must include in Appendix B position descriptions that include the roles, responsibilities, and qualifications of proposed project staff. The applicant must include in Appendix C copies of biographical sketches for any key employed personnel assigned to work on the proposed project.

vii. Project Abstract

The applicant must provide a summary of the application. Because HHS/OHGA often distributes the abstract to provide information to the American public and the U.S. Congress, the applicant should prepare this so it is clear, accurate, concise, and without reference to other parts of the application. It must include a brief description of the proposed grant project, including the needs addressed, the proposed work, and the population group(s) served.

The applicant must place the following at the top of the abstract:

- Project title;
- Applicant name;
- Address;
- Contact phone numbers (voice, fax);
- E-mail address; and

• Web site address, if applicable.

The project abstract must be single-spaced and limited to two pages in length.

viii. Program Narrative

This section provides a comprehensive framework and description of all aspects of the proposed program. It should be succinct, self-explanatory and well-organized so reviewers can understand the proposed project.

The applicant should use the following section headers for the Narrative:

• Introduction.

This section should briefly describe the purpose of the proposed project.

• Work Plan.

The applicant should describe the activities or steps to achieve each of the activities proposed in the methodology section and use a time line that includes each activity and identifies responsible staff.

• Resolution of Challenges.

The applicant should discuss likely challenges designing and implementing the activities described in the Work Plan, and approaches to resolve such challenges.

• Evaluation and Technical Support Capacity.

The applicant should describe their current, relevant experience, skills, and knowledge, including individuals on staff, materials published, and previous work of a similar nature.

• Organizational Information.

The applicant should provide information on their current mission and structure, scope of current activities, and an organizational chart, and describe how these all contribute to the ability of the organization to conduct the program requirements and meet program expectations.

ix. Appendices

The applicant must provide the following items to complete the content of their applications. Please note these are supplementary in nature, and are not a continuation of the project narrative. The applicant should label each appendix.

(1) *Appendix A:* Tables, Charts, etc. To give further details about the proposal.

(2) *Appendix B:* Job Descriptions for Key Personnel. The applicant should keep each to one page in length as much as possible. Item 6 in the "Program Narrative" section of the HHS/PHS 5161–1 Form provides some guidance on items to include in a job description.

(3) *Appendix C:* Biographical Sketches of Key Personnel. The applicant should include biographical sketches for persons who are occupying the key positions described in Appendix B, not to exceed two pages in length. In the event an applicant includes a biographical sketch for an identified individual not yet hired, it must include a letter of commitment from that person with the biographical sketch.

(4) *Appendix D:* Letters of Agreement and/or Description(s) of Proposed/Existing Contracts (project specific). The applicant must provide any documents that describe working relationships between the applicant agency and other agencies and programs cited in the proposal. Documents that confirm actual or pending contractual agreements should clearly describe the roles of the subcontractors and any deliverable. Letters of Agreement must be dated.

(5) *Appendix E:* Organizational Chart for the Project. The applicant must provide a one-page figure that depicts the organizational structure of the project, including subcontractors and other significant collaborators.

(6) *Appendix F:* Other Relevant Documents. Include here any other documents relevant to the application, including letters of support. Letters of support must be dated.

3. Submission Dates and Times

Application Submission

HHS/OPHS provides multiple mechanisms for the submission of applications, as described in the following sections. The applicant will receive notification via mail from the HHS/OPHS Office of Grants Management to confirm the receipt of applications submitted using any of these mechanisms. The HHS/OPHS Office of Grants Management will not accept for review applications submitted after the deadlines described below. HHS/OPHS will not accept for review applications that do not conform to the requirements of the grant announcement, and return them to the applicant.

The applicant may only submit electronically via the electronic submission mechanisms specified below. HHS will not accept for review any applications submitted via any other means of electronic communication, including facsimile or electronic mail. While HHS will accept applications in hard-copy, we encourage the use of the electronic application submission capabilities provided by the HHS/OPHS eGrants system or the Grants.gov Web site Portal. *Electronic Submissions via the Grants.gov Web site Portal.* The Grants.gov Web site Portal provides organizations with the ability to submit applications for HHS/OPHS grant opportunities. Organizations must successfully complete the necessary registration processes to submit an application. Information about this system is available on the Grants.gov Web site at the following Internet address: *http://www.grants.gov.*

In addition to electronically submitted materials, The applicant may be required to submit hard-copy signatures for certain Program-related forms, or original material as required by the announcement. The applicant must review both the grant announcement, and the application guidance provided within the Grants.gov application package, to determine such requirements. The applicant must submit any required hard copy materials, or documents that require a signature, separately via mail to the OPHS Office of Grants Management, which, if required, must contain the original signature of an individual authorized to act for the applicant agency and the obligations imposed by the terms and conditions of the grant award.

Electronic applications submitted via the Grants.gov Web site Portal must contain all completed online forms required by the application kit, the Program Narrative, Budget Narrative and any appendices or exhibits. HHS must receive all required mail-in items by the due date requirements specified above. Mail-in items may only include publications, résumés, or organizational documentation.

Upon completion of a successful electronic application submission via the Grants.gov Web site Portal, the applicant will receive a confirmation page from Grants.gov to indicate the date and time (eastern time) of the electronic application submission, as well as a Grants.gov Receipt Number. The applicant must print and retain this confirmation for their records, as well as a copy of the entire application package.

Grants.gov will validate all applications submitted via the Grants.gov Web site Portal. Any applications deemed "Invalid" by the Grants.gov Web site Portal will pass on the HHS/OPHS eGrants system, and HHS/OPHS has no responsibility for any application not validated and transferred to HHS/OPHS from the Grants.gov Web site Portal. Grants.gov will notify the applicant regarding the application validation status. Once the Grants.gov Web site Portal has successfully validated an application, the applicant should immediately mail all required hard-copy materials to the HHS/OPHS Office of Grants

Management by the deadlines specified above. The applicant must clearly identify their organizations name and Grants.gov Application Receipt Number on all hard-copy materials.

Once Grants.gov has validated an application, it will electronically transferred proceed to the HHS/OPHS eGrants system for processing. Upon receipt of both the electronic application from the Grants.gov Web site Portal, and the required hard-copy mail-in items, the applicant will receive notification via mail from the HHS/OPHS Office of Grants Management to confirm the receipt of the application submitted by the Grants.gov Web site Portal.

The applicant should contact Grants.gov regarding any questions or concerns regarding the electronic application process conducted through the Grants.gov Web site Portal.

Electronic Submissions via the HHS/OPHS eGrants System. The HHS/OPHS electronic grants-management system, eGrants, provides for the electronic submission of applications. Information about this system is available on the HHS/OPHS eGrants Web site at the following Internet address: *https://egrants.osophs.dhhs.gov;* or from the HHS/OPHS Office of Grants Management at 1–(240) 453–8822.

When submitting applications via the HHS/OPHS eGrants system, the applicant must submit a hard-copy of the application face page (Standard Form 424) with the original signature of an individual authorized to act for the applicant agency and assume the obligations imposed by the terms and conditions of the grant award. If required, the applicant will also need to submit a hard copy of the Standard Form LLL and/or certain Program-related forms (*e.g.*, Program Certifications) with the original signature of an individual authorized to act for the applicant agency.

Electronic applications submitted via the HHS/OPHS eGrants system must contain all completed online forms required by the application kit, the Program Narrative, Budget Narrative and any appendices or exhibits. The applicant may identify specific mail-in items to send to the HHS/OPHS Office of Grants Management separate from the electronic submission; however the applicant must enter these mail-in items on the eGrants Application Checklist at the time of electronic submission, and HHS must receive them by the due date requirements specified above. Mail-In items may only include publications, résumés, or organizational documentation.

Upon completion of a successful electronic application submission, the HHS/OPHS eGrants system will provide the applicant with a confirmation page to indicate the date and time (Eastern Time) of the electronic application submission. This confirmation page will also provide a listing of all items that constitute the final application submission, including all electronic application components, required hard-copy original signatures, and mail-in items, as well as the mailing address of the HHS/OPHS Office of Grants Management to which the applicant must submit all required hard-copy materials.

As the HHS/OPHS Office of Grants Management receives items, the electronic application status will be updated to reflect the receipt of mail-in items. We recommend the applicant monitor the status of their applications in the HHS/OPHS eGrants system to ensure the receipt of all signatures and mail-in items.

Mailed or Hand-Delivered Hard-Copy Applications. The applicant who submit applications in hard copy (via mail or hand-delivered) must submit an original and two copies of the application. An individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award must sign the original application.

HHS will consider mailed or hand-delivered applications as having met the deadline if the HHS/OPHS Office of Grant Management receives them on or before 5 p.m. eastern time on the deadline date specified in the **DATES** section of the announcement. The application deadline date requirement specified in this announcement supersedes the instructions in the HHS/OPHS–1. HHS will return unread applications that do not meet the deadline.

The applicant should submit their applications to the following address: Director, Office of Grants Management, Office of Public Health and Science, U.S. Department of Health and Human Services, 1101 Wootten Parkway, Suite 550, Rockville, MD 20852.

4. Intergovernmental Review

This program is not subject to the review requirements of Executive Order 12372, Intergovernmental Review of Federal Programs.

5. Funding Restrictions

Allowability, allocability, reasonableness, and necessity of direct costs the applicant may charge appear in the following documents: OMB–21 (Institutes of Higher Education); OMB Circular A–122 (Nonprofit Organizations) and 45 CFR Part 74, Appendix E (Hospitals). Copies of these circulars are available on the Internet at the following Internet address: *http://www.whitehouse.gov/omb.* No pre-award costs are allowed.

6. Other Submission Requirements

N/A.

V. Application Review Information

1. Criteria

HHS/OGHA staff will screen the application for completeness and for responsiveness to the program guidance. The applicant should pay strict attention to addressing these criteria, as they are the basis upon which HHS/OGHA will judge the application. HHS/OGHA will return to the applicant without review any application judged non-responsive or incomplete.

An application that is complete and responsive to the guidance will undergo an evaluation for scientific and technical merit by an appropriate peer-review group specifically convened for this solicitation, and in accordance with HHS policies and procedures. The panel may contain both Federal and non-Federal representatives. As part of the initial merit review, the application will receive a written critique. The ad hoc peer-review group will discuss fully an application recommended for approval and will receive a priority score for funding. HHS/OGHA will assess the eligible application according to the following criteria:

(1) *Technical Approach (40 points):*

- The applicant's presentation of a sound and practical technical approach for executing the requirements with adequate explanation, substantiation and justification of the methods for handling the projected needs of the Afghan Ministry of Public Health.
- The successful applicant must demonstrate a clear understanding of the scope and objectives of the cooperative agreement, recognition of potential difficulties that may arise in performing the work required, presentation of adequate solutions, and understanding of the close coordination necessary between the HHS/OGHA, the Afghan Ministry of Public Health, the U.S. Agency for International Development, the U.S. Department of Defense, and other organizations, such as the World Health Organization and United Nations Children's Fund.
- The applicant must submit a strategic plan that outlines the schedule of activities and expected products of the Group's work with benchmarks at

months six, 12. The strategic plan should specifically address the expected progress of the program to improve quality of care.

(2) *Personnel Qualifications and Experience (20 points):*

• Project Leadership—For the technical and administrative leadership of the project requirements, the successful applicant must demonstrate documented training, expertise, relevant experiences, leadership/management skills, and availability of a suitable overall project manager and surrounding management structure to successfully plan and manage the project. The successful applicant will provide documented history of leadership in the establishment and management of training programs that involve the training of health-care professionals in countries other than the United States. Expertise in maternal and child health-care, including documented training, expertise, relevant experience, local-language skills, leadership skills, and medical expertise specific to maternal and child health. The applicant must show the managerial ability to achieve delivery or performance requirements, as demonstrated by the proposed use of management and other personnel resources and to manage the project successfully, including subcontractor and/or consultant efforts, if applicable, as evidenced by the management plan and demonstrated by previous relevant experience.

• Partner Institutions and other Personnel—The applicant should provide documented evidence of availability, training, qualifications, local-language skills, expertise, relevant experience, education and competence of the scientific, clinical, analytical, technical and administrative staff and any other proposed personnel (including partner institutions, subcontractors and consultants), to perform the requirements of the work activities, as evidenced by résumés, endorsements and explanations of previous efforts.

• Staffing Plan—The applicant should submit a staffing plan for the conduct of the project, including the appropriateness of the time commitment of all staff and partner institutions, the clarity and appropriateness of assigned roles, and lines of authority. The applicant should also provide an organizational chart for each partner institution named in the application to show relationships among the key personnel.

• Administrative and Organizational Framework—The applicant should demonstrate the adequacy of the administrative and organizational framework, with their lines of authority and responsibility clearly demonstrated, and the adequacy of the project plan, with a proposed time schedule for achieving objectives and maintaining quality control over the implementation and operation of the project. The applicant should show the adequacy of back-up staffing and the evidence they will be able to function as a team. The framework should identify the institution that will assume legal and financial responsibility and accountability for the use and disposition of funds awarded on the basis of this RFA.

(3) *Experience and Capabilities of the Organization (30 Points):*

• The applicant should submit documented relevant experience of the organization in managing projects of similar complexity and scope of the activities in Afghanistan.

• The applicant should demonstrate the clarity and appropriateness of lines of communication and authority for coordination and management of the project, and the adequacy and feasibility of plans to ensure successful coordination of a multiple-partner collaboration.

• The applicant should document the experience in recruiting qualified medical personnel for projects of similar complexity and scope of activities in Afghanistan.

(4) *Facilities and Resources (10 Points):*

The applicant must document the availability and adequacy of facilities, equipment and resources necessary to carry out the activities specified under the "Program Requirements" Section of this announcement.

2. Review and Selection Process

The application will be reviewed by a panel of peer reviewers. Each of the above criteria will be addressed and considered by the reviewers in assigning the overall score. The Final award will be made by the Deputy Director, Asia and Pacific Division of the Office of Global Health Affairs on the basis of score, program relevance and, availability of funds.

VI. Award Administration Information

1. Award Notices

OGHA/HHS does not release information about individual applications during the review process until final funding decisions have been made. When these decisions have been made, the applicant will be notified by letter regarding the outcome of their applications. The official document notifying an applicant that an application has been approved and funded is the Notice of Award, which specifies to the awardee the amount of money awarded, the purpose of the agreement, the terms and conditions of the agreement, and the amount of funding, if any, to be contributed by the awardee to the project costs.

2. Administrative and National Policy Requirements

The regulations set out at 45 CFR parts 74 and 92 are the Department of Health and Human Services (HHS) rules and requirements that govern the administration of grants. Part 74 is applicable to all recipients except those covered by part 92, which governs awards to state and local governments. The applicant funded under this announcement must be aware of and comply with these regulations. The CFR volume that includes parts 74 and 92 may be downloaded from *http://www.access.gpo.gov/nara/cfr/waisidx_03/45cfrv1_03.html.*

3. Reporting

The project is required to have an evaluation plan, consistent with the scope of the proposed project and funding level that conforms to the project's stated goals and objectives. The evaluation plan should include both a process evaluation to track the implementation of project activities and an outcome evaluation to measure changes in knowledge and skills that can be attributed to the project. Project funds may be used to support evaluation activities. In addition to conducting their own evaluation of projects, the successful applicant must be prepared to participate in an external evaluation, to be supported by OGHA/HHS and conducted by an independent entity, to assess efficiency and effectiveness for the project funded under this announcement.

Within 30 days following the end of each quarter, submit a performance report no more than ten pages in length and must be submitted to OGHA/HHS. A sample monthly performance report will be provided at the time of notification of award. At a minimum, monthly performance reports should include:

• Concise summary of the most significant achievements and problems encountered during the reporting period, e.g. number of training courses held and number of trainees.

• A comparison of work progress with objectives established for the quarter using the grantee's implementation schedule, and where

such objectives were not met, a statement of why they were not met.

- Specific action(s) that the grantee would like the OGHA/HHS to undertake to alleviate a problem.
- Other pertinent information that will permit monitoring and overview of project operations.
- A quarterly financial report describing the current financial status of the funds used under this award. The awardee and OGHA will agree at the time of award for the format of this portion of the report.

Within 90 days following the end of the project period a final report containing information and data of interest to the Department of Health and Human Services, Congress, and other countries must be submitted to OGHA/HHS. The specifics as to the format and content of the final report and the summary will be sent to the successful applicant. At minimum, the report should contain:

- A summary of the major activities supported under the agreement and the major accomplishments resulting from activities to improve mortality in partner country.
- An analysis of the project based on the problem(s) described in the application and needs assessments, performed prior to or during the project period, including a description of the specific objectives stated in the grant application and the accomplishments and failures resulting from activities during the grant period.

Quarterly performance reports and annual reports may be submitted to: Mr. DeWayne Wynn, Grants Management Specialist, Office of Grants Management, OPHS, HHS, 1101 Wootton Parkway, Suite 550, Rockville, MD 20852, phone (240) 453–8822.

A Financial Status Report (FSR) SF–269 is due 90 days after the close of each 12-month budget period and submitted to OPHS—Office of Grants Management.

VII. Agency Contacts

For assistance on administrative and budgetary requirements, please contact: Mr. DeWayne Wynn, Grants Management Specialist, Office of Grants Management, OPHS, HHS, 1101 Wootton Parkway, Suite 550, Rockville, MD 20852, phone (240) 453–8822.

For assistance with questions regarding program requirements, please contact: Dr. Amar Bhat, Office of Global Health Affairs, Asia-Pacific Division, Office of the Secretary, Department of Health and Human Services, 5600 Fishers Lane, Suite 18–101, Rockville, MD 20857, phone: (301) 443–1410.

VIII. Tips for Writing a Strong Application

Include DUNS Number. You must include a DUNS Number to have your application reviewed. An application will not be reviewed without a DUNS number. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please include the DUNS number next to the OMB Approval Number on the application face page.

Keep your audience in mind. Reviewers will use only the information contained in the application to assess the application. Be sure the application and responses to the program requirements and expectations are complete and clearly written. Do not assume that reviewers are familiar with the applicant organization. Keep the review criteria in mind when writing the application.

Start preparing the application early. Allow plenty of time to gather required information from various sources.

Follow the instructions in this guidance carefully. Place all information in the order requested in the guidance. If the information is not placed in the requested order, you may receive a lower score.

Be brief, concise, and clear. Make your points understandable. Provide accurate and honest information, including candid accounts of problems and realistic plans to address them. If any required information or data is omitted, explain why. Make sure the information provided in each table, chart, attachment, etc., is consistent with the proposal narrative and information in other tables.

Be organized and logical. Many applications fail to receive a high score because the reviewers cannot follow the thought process of the applicant or because parts of the application do not fit together.

Be careful in the use of appendices. Do not use the appendices for information that is required in the body of the application. Be sure to cross-reference all tables and attachments located in the appendices to the appropriate text in the application.

Carefully proofread the application. Misspellings and grammatical errors will impede reviewers in understanding the application. Be sure pages are numbered (including appendices) and that page limits are followed. Limit the use of abbreviations and acronyms, and define each one at its first use and periodically throughout application.

Dated: September 12, 2006.

Sandra R. Manning,

Deputy Director for Operations and Management, Office of Global Health Affairs.

[FR Doc. E6–15503 Filed 9–18–06; 8:45 am]

BILLING CODE 4150–38–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–06–0199]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov*. Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

Importation of Etiologic Agents, Hosts, and Vectors of Human Disease (42 CFR 71.54)—(OMB Control No. 0920–0199)—Revision—Office of the Director (OD), Centers for Disease Control and Prevention.

Background and Brief Description

The Foreign Quarantine Regulations (42 CFR Part 71) set forth provisions to prevent the introduction, transmission, and spread of communicable disease from foreign countries into the United States. Subpart F—Importations—contains provisions for importation of etiologic agents, hosts, and vectors (42 CFR 71.54), requiring persons that import or distribute after importation of these materials to obtain a permit issued by the CDC. This request is for the information collection requirements contained in 42 CFR 71.54 for issuance of permits by CDC to importers or distributors after importation of etiologic agents, hosts, or vectors of human disease.

CDC is requesting continued OMB approval to collect this information through the use of two separate forms. These forms are: (1) Application for Permit to Import or Transport Etiologic Agents, Hosts, or Vectors of Human Disease and (2) Application for Permit to Import or Transport Live Bats.

The Application for Permit to Import or Transport Etiologic Agents, Hosts, or Vectors of Human Disease will be used by laboratory facilities, such as those operated by government agencies, universities, research institutions, and zoologic exhibitions, and also by importers of nonhuman primate trophy materials, such as hunters or taxidermists, to request permits for the importation and subsequent distribution after importation of etiologic agents, hosts, or vectors of human disease. The Application for Permit to Import or Transport Etiologic Agents, Hosts, or Vectors of Human Disease requests applicant and sender contact information; description of material for importation; facility isolation and containment information; and personnel qualifications. Estimated average time to complete this form is 20 minutes.

The Application for Permit to Import or Transport Live Bats will be used by laboratory facilities such as those operated by government agencies, universities, research institutions, and zoologic exhibitions entities to request importation and subsequent distribution after importation of live bats. The Application for Permit to Import or Transport Live Bats requests applicant and sender contact information; a description and intended use of bats to be imported; facility isolation and containment information; and personnel qualifications.

There is no cost to the respondents other than their time. The total annualized burden is 766 hours.

ESTIMATE OF ANNUALIZED BURDEN HOURS

CFR section	Number of respondents	Responses per respondent	Average hourly burden
71.54 Application for Permit	2,300	1	20/60

Dated: September 12, 2006.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E6–15504 Filed 9–18–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Strategy To Support Health Information Technology Among HRSA's Safety Net Providers

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Solicitation of comments.

SUMMARY: HRSA is requesting comments on the future direction and strategy regarding investments in health information technology (HIT) for section 330 grantees and other HRSA safety-net providers through its Office of Health Information Technology (OHIT). OHIT will evaluate all comments received during the public comment period to inform OHIT's policy direction.

DATES: To be considered, comments must be received by October 10, 2006.

FOR FURTHER INFORMATION CONTACT: Anthony Achampong, Division of Health Information Technology State and Community Assistance, Office of Health Information Technology, Health Resources and Services Administration, 5600 Fishers Lane, 7C–22, Rockville, Maryland 20857; *aachampong@hrsa.gov.*

SUPPLEMENTARY INFORMATION: In accordance with Public Health Service Act, Title III, section 330(e)(1)(C), and 330(c)(1)(B) and 330(c)(1)(C).

Background

The Health Resources and Services Administration (HRSA), an agency of the U.S. Department of Health and Human Services, is the primary Federal agency for improving access to health care services for people who are uninsured, isolated or medically vulnerable. Comprising five bureaus and 12 offices, HRSA provides leadership and financial support to health care providers in every State and U.S. territory. HRSA grantees provide health care to uninsured people, people living with HIV/AIDS, and pregnant women, mothers and children. They train health professionals and improve systems of care in rural communities. HRSA is the Nation's access agency—improving health and saving lives by making sure the right services are available in the right places at the right time.

The Office of Health Information Technology (OHIT) serves as the HRSA Administrator's principal advisor for promoting the adoption of HIT in the service of the medically uninsured, underserved and other vulnerable populations, and ensuring that key issues affecting the public and private adoption of HIT are addressed. The mission of OHIT is to promote quality of care and improvements in patient health outcomes through the adoption and effective use of health information technology (HIT) in the safety-net community. OHIT is also responsible for administering the Telehealth and Health Center Controlled Network (HCCN) grant programs. OHIT's goal is to represent the HIT needs of the safety-net community providers to ensure that a digital divide does not separate care for patients of HRSA grantees and those receiving care in other sectors. OHIT's goal is also to provide leadership across the Federal agencies in HIT adoption in the safety-net community.

HCCNs are the potential foundation for a HRSA strategy on HIT adoption and use by section 330 grantees. The HCCN grant program was developed in 1994 to support the creation, development, and operation of networks, controlled by health centers, to ensure access to health care for the medically underserved populations through the enhancement of health center operations. The HCCNs routinely perform core business functions across their marketplace, State, or region. The core business functions range from electronic health records, credentialing and privileging programs, utilization review and management, and clinical quality improvement. They provide these functions at or below marketplace cost to their members to increase efficiencies, reduce costs, and improve health care quality for underserved and uninsured populations. As such, the HCCNs are vital to achieving the President's goal of assuring that every American in the Nation will have an Electronic Health Record (EHR) by 2014.

HRSA'S Quality Initiative

In May 2006, HRSA reconfirmed its goal to improve the quality of health service and health outcomes for all the patients served by HRSA grantees including the 14.5 million patients served by health centers, and announced a commitment to develop new reporting requirements to measure and document clinical outcomes. It is expected that further development of the HIT infrastructure used by health centers and other HRSA grantees will

take place in the context of HRSA's quality initiative. As such, HRSA's goal is not simply to collect data; it is also important that the data be used to track individual and population health outcomes and improve patient care. The long-term vision of HRSA and OHIT is to transform systems of care for safety-net populations through the effective use of HIT. HIT is an important tool in measuring and improving patient care. For example, the data available in EHRs can be used to better manage the treatment of chronic diseases, inform clinical and operational processes, and target community-oriented primary care resources. As the lessons of the HRSA Health Disparities Collaborative have shown, collecting and using data to drive system change is a fundamental part of improving patient care and related health outcomes.

Goals for OHIT Network Activities

Given that the HCCN grants are administered by OHIT and that they have a proven track record in promoting HIT adoption, OHIT is considering possible ways to modify the HCCN grant program to further promote effective adoption and implementation of HIT initiatives, including EHRs, which result in improved quality of care and patient outcomes. HRSA plans to utilize the authorities cited above to fund HCCNs. Although only entities receiving section 330 funding are eligible to be the applicant/lead grantee, an HCCN may include organizations in addition to section 330 grantees that are community based and have similar goals and missions such as Federally Qualified Health Center Look-A likes, locally funded clinics, etc.

The purpose of developing and implementing new strategies and changing the direction of HRSA's network activities is to take the lessons learned from the previous HRSA grant programs, continue to build on these successes, and create more network solutions for promoting HIT adoption by 330 grantees and other safety-net providers. HRSA is considering restructuring the HCCN grant program to focus solely on projects that promote HIT adoption. These HIT-focused projects could be funded in two phases: (1) Planning and implementation and (2) innovation and sustainability. This possible move to an HIT-focused grant program would advance the President's goals related to HIT and the adoption of EHRs. The intent would be to fund HIT-focused projects that will result in improvements in patient outcomes and quality. To be considered successful, these HIT initiatives must result in measurable increases in EHR adoption by health centers, and in clinical and operational improvements in quality and patient health outcomes.

Request for Comments

The Office of Health Information Technology is requesting comments on the future direction of investments and strategy in HIT using the HCCN model. Respondents should take into account the likelihood that HRSA programs may not grow substantially in the near future and that we may face budget limitations. The following areas provide guidance for the type of feedback we are requesting:

1. Challenges and opportunities in restructuring the HCCN grant program. Other approaches to consider in promoting quality of care and improvements in patient outcomes through HIT adoption for minority and underserved populations.

2. Key considerations that should be taken into account when designing the new funding opportunities to reach the ultimate goal of using HIT via the HCCN approach to increase EHR adoption and to improve quality of care and health outcomes.

3. Types of HIT investments, other than EHRs, that HRSA should consider investing in, to improve quality of care and health outcomes.

4. Benefits of funding networks to provide HIT support to health centers and other safety net providers. Types of incentives, if any, to encourage health centers, and other HRSA grantees to join networks.

5. Capacity needed for a network to promote HIT among a group of health centers and other HRSA grantees, such as number of health centers and/or number of patients included.

6. If and/or how HRSA should consider retaining the HCCN administrative, financial and clinical core services in the proposed funding opportunities as they relate to promoting HIT adoption?

7. Model practices in other parts of the safety net or private industry to build key HIT capacities in under-resourced environments.

8. Quality and safety issues that could be addressed with the appropriate use of HIT in the safety net organizations.

9. The role of Telehealth in the overall HIT strategy.

10. Linking quality of care and improvement of patient outcomes to these strategies to ensure that the ultimate goal of improving care is met.

11. Performance measures (process and/or outcome) to indicate progress/success of HRSA-funded HIT initiatives.

12. Expectations for networks around sustainability, including long-term sources of funding.

13. Collaboration between Primary Care Associations (PCAs) and HCCNs in the adoption of effective HIT by safety-net providers and the use of HIT to improve quality and patient outcomes.

14. Approaches to include State Medicaid agencies, public health departments, other HRSA grantees, and other providers and stakeholders in HIT adoption. Approaches to a coordinated approach in a State or community for health information technology/exchange use and support.

15. Any other comments related to OHIT's policy direction related to networks and the use of HIT to expand EHR adoption and improve quality and patient outcomes.

Collection. All comments will become a matter of public record.

Dated: September 7, 2006.

Elizabeth M. Duke,

Administrator.

[FR Doc. E6–15489 Filed 9–18–06; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2006–25800]

Collection of Information Under Review by Office of Management and Budget: OMB Control Number 1625–0012

AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB) to request a revision for the following collection of information: 1625–0012, Certificate of Discharge to Merchant Mariners. Before submitting the ICR to OMB, the Coast Guard is inviting comments on it as described below.

DATES: Comments must reach the Coast Guard on or before November 20, 2006.

ADDRESSES: To make sure that your comments and related material do not enter the docket [USCG–2006–25800] more than once, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation (DOT), room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov.*

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

Copies of the complete ICR are available through this docket on the Internet at *http://dms.dot.gov,* and also from Commandant (CG–611), U.S. Coast Guard Headquarters, room 6106 (Attn: Ms. Barbara Davis), 2100 2nd Street, SW., Washington, DC 20593–0001. The telephone number is 202–475–3523.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Davis, Office of Information Management, telephone 202–475–3523, or fax 202–475–3929, for questions on these documents; or telephone Ms. Renee V. Wright, Program Manager, Docket Operations, 202–493–0402, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to respond to this request for comments by submitting comments and related materials. We will post all comments received, without change, to *http://dms.dot.gov;* they will include any personal information you have provided. We have an agreement with DOT to use the Docket Management Facility. Please see the paragraph on DOT's "Privacy Act Policy" below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number [USCG–2006–25800], indicate the specific section of the document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this notice as being available in the docket, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

Information Collection Request

Title: Certificate of Discharge to Merchant Mariners.

OMB Control Number: 1625–0012.

Summary: Under 46, U. S. C. 10311, the Coast Guard prescribes the form of the Certificate of Discharge for Merchant Mariners. The Certificate provides merchant mariners with evidence of sea service to determine eligibility for various benefits, such as medical and retirement. The information collected is also used to show eligibility for an original, renewed, upgraded license or merchant mariner document, to develop maritime sea service statistics, and to provide information to the U.S. Maritime Administration (MARAD) on the availability of mariners in a time of national emergency. The Coast Guard's Sea Service database captures the information from the Certificates of Discharge and is used by the Coast Guard's Regional Examination Centers to evaluate the qualifications of mariners who apply for originals, renewals, upgrades to their license or merchant mariners documents. The information from the database is compiled annually by MARAD to prepare Congressionally mandated reports on mariner availability. Currently, the CG Form 718A is only available in booklet format utilizing carbon copies. The Coast Guard is revising this form so that it may be provided to the maritime community for downloading via the internet. The new version still requires vessel master and discharged mariner signatures. This effort is intended to alleviate issues regarding form availability.

Need: The information is used primarily, on an as-needed basis, by mariners and the Coast Guard to establish sea service time and qualifications for issuing original, renewals or upgraded merchant mariner credentials; in claims against employers; in medical claims; and in qualifying for retirement benefits or insurance benefits.

Respondents: Masters or mates of shipping companies and merchant mariners.

Frequency: On occasion.

Burden Estimate: The estimated burden has decreased from 4,500 hours to 1,800 hours a year.

Dated: September 13, 2006.

R. T. Hewitt,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. E6–15494 Filed 9–18–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4922–N–21]

Privacy Act of 1974; Amendment to Existing Privacy Act Systems, Employee Identification Files, HUD/Dept–71

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notification of an amendment to an existing System of Records, Employee Identification Files, HUD/Dept-71.

SUMMARY: HUD is completely revising HUD/Dept–71 to implement Homeland Security Presidential Direction 12 (HSPD–12) policy for a common identification standard for Federal employees and contractors. All of the sections including the system name are revised to reflect the current information requirements for individuals and contractors who require ongoing access to HUD's facilities and information technology systems.

DATES: *Effective Date:* This proposal shall become effective without further notice October 19, 2006 unless comments are received during or before this period which would result in a contrary determination.

Comments Due Date: October 19, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Jeanette Smith, Departmental Privacy Act Officer, telephone number (202) 708–2374. [This is not a toll-free number.] A telecommunications device for hearing and speech-impaired persons (TTY) is available at (800) 877–8339 (Federal Information Relay Services). [This is a toll-free number.]

SUPPLEMENTARY INFORMATION: The primary purposes of the system of records are:

(a) To ensure the safety and security of HUD facilities, systems, or information, and our occupants and users;

(b) To verify that all persons entering Federal facilities or using Federal information resources are authorized to do so;

(c) To track and control Personal Identity Verification (PIV) cards issued to persons entering and exiting the facilities, or using information systems.

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, notice is given that HUD proposes to amend an existing Privacy System of Records, Employee Identification Files HUD/Dept–71.

Title 5 U.S.C. 552a(e)(4) and (11) provide that the public be afforded a 30-day period in which to comment on the new record system. The new system report was submitted to the Office of Management and Budget (OMB), the Senate Committee on Governmental Affairs, and the House Committee on Government Reform pursuant to paragraph 4c of Appendix 1 to OMB Circular No. A–130, "Federal Responsibilities for Maintaining Records About Individuals," July 25, 1994 (59 FR 37914).

Accordingly, this notice amends HUD/Dept–71 system of records for the Office of Administration and accompanying routine uses to be submitted and accessed in the management of the Identity Management System by the Office of Administration.

Authority: 5 U.S.C. 552a; 88 Stat. 1896; 42 U.S.C. 3535(d).

Dated: September 12, 2006.

Ed Dorris,

Deputy Chief Information Officer, Office of Systems Integration and Efficiency.

DEPT/DEPT–71

SYSTEM NAME:

Identity Management System (IDMS).

SYSTEM LOCATION:

Data covered by this system are maintained at the following locations: U.S. Department of Housing and Urban Development (HUD), Office of Security and Emergency Planning (OSEP), 451 Seventh Street, SW., Washington, DC 20410. Some data covered by this system is at HUD Regional and Field Office locations, both Federal buildings and Federally-leased space, where staffed guard stations have been established in facilities that have installed the Personal Identity Verification (PIV) system, as well as the physical security office(s) or computer security offices of those locations.

SECURITY CLASSIFICATION:

Most identity records are not classified. However, in some cases, records of a few individuals, or portions of some records, may potentially be classified in the interest of national security.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals (employees or contractors) who require regular, ongoing access to agency facilities, information technology systems, or information classified in the interest of national security, including applicants for employment or contracts, Federal employees, contractors, students, interns, volunteers, affiliates, and individuals formerly in any of these positions. The system also includes individuals authorized to perform or use services provided in HUD facilities (*e.g.*, Credit Union, Fitness Center, etc.). The system does not apply to occasional visitors or short-term guests to whom HUD will issue temporary identification and credentials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained on individuals issued credentials by HUD include the following data fields: Full name, Social Security number; date of birth; signature; image (photograph); fingerprints; hair color; eye color; height; weight; organization/office of assignment; company name (for contractors); telephone number; copy of background investigation form (Standard Form 85 or 85P or 86); PIV card issue and expiration dates; personal identification number (PIN) for the PIV Card; results of background investigation; PIV request form; PIV registrar approval signature; PIV card serial number; emergency responder designation; copies of documents used to verify identification or information derived from those documents (such as document title, document issuing authority, document number, document expiration date, document other information); level of national security clearance and expiration date; computer system user name; user access and permission rights, authentication certificates; and digital signature information.

Records maintained on PIV card holders entering HUD facilities or using HUD systems may include: Full name; PIV Card serial number; date, time, and location of entry; company name (for contractors); card expiration date; digital signature information; and computer networks/applications/data accessed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Federal Information Security Act (Pub. L. 104–106, sec. 5113); Electronic Government Act (Pub. L. 104–347, sec. 203); the Paperwork Reduction Act of 1995 (44 U.S.C. 3501); Government Paperwork Elimination Act (Pub. L. 105–277, 44 U.S.C. 3504); Homeland Security Presidential Directive 12 (HSPD–12), Policy for a Common Identification Standard for Federal Employees and Contractors, August 27, 2004; and Federal Property and Administrative Act of 1949, as amended.

PURPOSE:

The primary purposes of the system of records are: (a) To ensure the safety and security of HUD facilities, systems, or information, and our occupants and users; (b) to verify that all persons entering Federal facilities or using Federal information resources are authorized to do so; (c) to track and control PIV cards issued to persons entering and exiting the facilities, or using information systems.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information about covered individuals may be disclosed without consent as permitted by the Privacy Act of 1974, 5 U.S.C. 552a(b), and:

(1) To the Department of Justice when:

(a) The agency or any component thereof; or

(b) Any employee of the agency in his or her official capacity;

(c) Any employee of the agency in his or her individual capacity where agency or the Department of Justice has agreed to represent the employee; or

(d) The United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records by DOJ is therefore deemed by the agency to be for a purpose compatible with the purpose for which the agency collected the records.

(2) To a court or adjudicative body in a proceeding when:

(a) The agency or any component thereof;

(b) Any employee of the agency in his or her official capacity;

(c) Any employee of the agency in his or her individual capacity where agency or the Department of Justice has agreed to represent the employee; or

(d) The United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.

(3) Except as noted on Forms SF 85, 85–P, and 86, when a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate public authority, whether Federal, foreign, State, local, or tribal, or otherwise, responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative or prosecutorial responsibility of the receiving entity.

(4) To a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the written request of the constituent about whom the record is maintained.

(5) To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

(6) To HUD contractors, grantees, or volunteers who have been engaged to assist the agency in the performance of a contract service, grant, cooperative agreement, or other activity related to this system of records and who need to have access to the records in order to perform their activity. Recipients shall be required to comply with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

(7) To a Federal, State, local, foreign, or tribal or other public authority the fact that this system of records contains information relevant to the retention of an employee, the retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit. The other agency or licensing organization may then make a request supported by the written consent of the individual for the entire record if it so chooses. No disclosure will be made unless the information has been determined to be sufficiently reliable to support a referral to another office within the agency or to another Federal agency for criminal, civil, administrative personnel or regulatory action.

(8) To the Office of Management and Budget when necessary to the review of private relief legislation pursuant to OMB Circular No. A–19.

(9) To a Federal, State, or local agency, or other appropriate entities or individuals, or through established liaison channels to selected foreign governments, in order to enable an intelligence agency to carry out its responsibilities under the National Security Act of 1947 as amended, the CIA Act of 1949 as amended, Executive Order 12333 or any successor order, applicable national security directives, or classified implementing procedures approved by the Attorney General and promulgated pursuant to such statutes, orders or directives.

(10) To notify another Federal agency when, or verify whether, a PIV card is no longer valid.

(11) To the news media or the general public, factual information the disclosure of which would be in the public interest and which would not constitute an unwarranted invasion of personal privacy, consistent with Freedom of Information Act standards.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper files. Paper files are kept in file folders or card files. Automated records are maintained in HUD's Security Control Access Tracking System (SCATS), and the DSX card access control system for HUD Headquarters.

RETRIEVABILITY:

Records are retrievable by last name, Social Security number, other ID number, PIV card serial number, image (photograph), or fingerprint.

SAFEGUARDS:

Paper records are kept in locked cabinets in secure facilities. Access to them is restricted to individuals whose role requires use of the records. The computer servers in which records are stored are located in facilities that are secured by alarm systems and off-master key access. The computer servers themselves are password-protected. Access to individuals working at guard stations is password-protected; each person granted access to the system at guard stations must be individually authorized to use the system. A Privacy Act Warning Notice appears on the monitor screen when records containing information on individuals are first displayed. Data exchanged between the servers and the client PCs at the guard stations and badging office will be encrypted when HUD upgrades to a PIV-II compliant system in 2007. Backup tapes are stored in a locked and controlled room in a secure, off-site location.

An audit trail is maintained and reviewed periodically to identify unauthorized access. Persons given roles in the PIV process must complete training specific to their roles to ensure they are knowledgeable about how to protect individually identifiable information.

RETENTION AND DISPOSAL:

Records relating to persons' access covered by this system are retained in accordance with HUD Handbook 2228.2, General Records Schedule 18, Item 17, approved by the National Archives and Records Administration (NARA). Unless retained for specific, ongoing security investigations, records of access are maintained for five years and then destroyed. For other facilities, records are maintained for two years and then destroyed.

All other records relating to individuals are retained and disposed of in accordance with General Records Schedule 18, item 22a, approved by NARA. Records are destroyed upon notification of death or not later than five years after separation or transfer of employee, whichever is applicable.

In accordance with HSPD–12, PIV Cards are deactivated within 18 hours of cardholder separation, loss of card, or expiration. The information on PIV Cards is maintained in accordance with General Records Schedule 11, Item 4. PIV Cards are destroyed by cross-cut shredding *no later than* 90 days after deactivation.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Physical Security Division, Office of Security and Emergency Planning, 451 Seventh Street, SW., Washington, DC 20410. Phone: (202) 708–2914.

NOTIFICATION PROCEDURES:

An individual can determine if this system contains a record pertaining to him/her by sending a request in writing, signed, to Director, Physical Security Division, Office of Security and Emergency Planning, 451 Seventh Street, SW., Washington, DC 20410. Phone: (202) 708–2914.

When requesting notification of or access to records covered by this Notice, an individual should provide his/her full name, date of birth, agency name, and work location. An individual requesting notification of records in person must provide identity documents sufficient to satisfy the custodian of the records that the requester is entitled to access, such as a government-issued photo ID. Individuals requesting notification via mail or telephone must furnish, at minimum, full name, date of birth, Social Security number, and home address in order to establish identity.

RECORDS ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Rules regarding access to Privacy Act records appear in 24 CFR part 16. If additional information or assistance is required, contact HUD's Privacy Act Officer in the Office of the Chief Information Officer, 451 Seventh Street, SW., Washington, DC 20410. Phone: (202) 708–2374.

CONTESTING RECORD PROCEDURES:

Same as notification procedures. Requesters should also reasonably identify the record, specify the information they are contesting, state the corrective action sought and the reasons for the correction along with supporting justification showing why the record is not accurate, timely, relevant, or complete. Rules regarding amendment of Privacy Act records appear in 24 CFR part 16. If additional information or assistance is required, contact HUD's Privacy Appeals Officer in the Office of the General Counsel, 451 Seventh Street, SW., Washington, DC 20410.

RECORD SOURCE CATEGORIES:

Employee, contractor, or applicant; sponsoring agency; former sponsoring agency; other Federal agencies; contract employer; former employer.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E6–15491 Filed 9–18–06; 8:45 am]
BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4922–N–22]

Privacy Act of 1974; New System of Records, Personnel Security Files

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notification of a new Privacy Act System of Records, Personnel Security Files.

SUMMARY: HUD is creating a new Privacy Act System of Records, Personnel Security Files. The records in this system of records are used to document and support decisions regarding clearance for access to classified information, the suitability, eligibility, and fitness for service of applicants for federal employment and contract positions, including students, interns, or volunteers to the extent their duties require access to federal facilities, information, systems, or applications. The records may be used to document security violations and supervisory actions taken.

DATES: *Effective Date:* This proposal shall become effective without further notice in 30 calendar days, October 19, 2006, unless comments are received during or before this period which would result in a contrary determination.

Comments Due Date: October 19, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Jeanette Smith, Departmental Privacy Act Officer, telephone number (202) 708–2374. [This is not a toll-free number.] A telecommunications device for hearing and speech-impaired persons (TTY) is available at (800) 877–8339 (Federal Information Relay Services). [This is a toll-free number.]

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, notice is given that HUD proposes to create a new Privacy Act System of Records, Personnel Security Files.

Title 5 U.S.C. 552a(e)(4) and (11) provide that the public be afforded a 30-day period in which to comment on the new record system. The new system report was submitted to the Office of Management and Budget (OMB), the Senate Committee on Governmental Affairs, and the House Committee on Governmental Reform pursuant to paragraph 4c of Appendix 1 to OMB Circular No. A–130, "Federal Responsibilities for Maintaining Records About Individuals," July 25, 1994 (59 FR 37914).

Accordingly, this notice creates a new system of records for the Office of Administration and accompanying routine uses to be submitted and accessed in the management of the Personnel Security Files.

Dated: September 12, 2006.

Ed Dorris,

Deputy Chief Information Officer, Office of Systems Integration and Efficiency.

HUD/ADMIN–6

SYSTEM NAME:

Personnel Security Files.

SYSTEM LOCATION:

HUD Headquarters.

SECURITY CLASSIFICATION:

Most personnel identity verification records are not classified. However, in some cases, records of certain individuals, or portions of some records, may be classified in the interest of national security.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who require regular, ongoing access to federal facilities,

information technology systems, or information classified in the interest of national security, including applicants for employment or contracts, federal employees, contractors, students, interns, volunteers, affiliates, individuals authorized to perform or use services provided in HUD facilities (*e.g.*, Credit Union, Fitness Center, etc.), and individuals formerly in any of these positions. The system also includes individuals accused of security violations or found in violation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, former names, birth date, birth place, Social Security number, home address, phone numbers, employment history, residential history, education and degrees earned, names of associates and references and their contact information, citizenship, names of relatives, birthdates and birth places of relatives, citizenship of relatives, names of relatives who work for the Federal government, criminal history, mental health history, drug use, financial information, fingerprints, summary report of investigation, results of suitability decisions, level of security clearance, date of issuance of security clearance, requests for appeal, witness statements, investigator's notes, tax return information, credit reports, security violations, circumstances of violation, and agency action taken.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Depending upon the purpose of your investigation, the U.S. government is authorized to ask for this information under Executive Orders 10450, 10865, 12333, and 12356; sections 3301 and 9101 of title 5, U.S. Code; sections 2165 and 2201 of title 42, U.S. Code; sections 781 to 887 of title 50, U.S. Code; parts 5, 732, and 736 of title 5, Code of Federal Regulations; and Homeland Security Presidential Directive (HSPD) 12, Policy for a Common Identification Standard for Federal Employees and Contractors, August 21, 2004.

Forms: SF–85, SF–85P, SF–86, SF–87.

PURPOSE(S):

The records in this system of records are used to document and support decisions regarding the suitability, eligibility, and fitness for service of applicants for federal employment and contract positions, including long-term students, interns, or volunteers to the extent their duties require access to federal facilities, information, systems, or applications. For some positions, the records may also be used to document and support decisions regarding National Security Clearance for access to classified information. The records may be used to document security violations and supervisory actions taken.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. To the Department of Justice when:

(a) The agency or any component thereof; or

(b) Any employee of the agency in his or her official capacity;

(c) Any employee of the agency in his or her individual capacity where agency or the Department of Justice has agreed to represent the employee; or

(d) The United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records by DOJ is therefore deemed by the agency to be for a purpose compatible with the purpose for which the agency collected the records.

2. To a court or adjudicative body in a proceeding when:

(a) The agency or any component thereof;

(b) Any employee of the agency in his or her official capacity;

(c) Any employee of the agency in his or her individual capacity where agency or the Department of Justice has agreed to represent the employee; or

(d) The United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.

3. Except as noted on Forms SF–85, 85–P, and 86, when a record on its face, or in conjunction with other records, indicates a violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate public authority, whether Federal, foreign, State, local, or tribal, or otherwise, enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative or prosecutorial responsibility of the receiving entity.

4. To a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the written request of the constituent about whom the record is maintained.

5. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

6. To HUD contractors, grantees, or volunteers who have been engaged to assist the agency in the performance of a contract service, grant, cooperative agreement, or other activity related to this system of records and who need to have access to the records in order to perform their activity. Recipients shall be required to comply with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

7. To any source or potential source from which information is requested in the course of an investigation concerning the retention of an employee or other personnel action (other than hiring), or the retention of a security clearance, contract, grant, license, or other benefit, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

8. To a Federal, State, local, foreign, or tribal or other public authority the fact that this system of records contains information relevant to the retention of an employee, the retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit. The other agency or licensing organization may then make a request supported by the written consent of the individual for the entire record if it so chooses. No disclosure will be made unless the information has been determined to be sufficiently reliable to support a referral to another office within the agency or to another Federal agency for criminal, civil, administrative personnel or regulatory action.

9. To the news media or the general public, factual information the disclosure of which would be in the public interest and which would not constitute an unwarranted invasion of personal privacy, consistent with Freedom of Information Act standards.

10. To a Federal, State, or local agency, or other appropriate entities or individuals, or through established liaison channels to selected foreign governments, in order to enable an intelligence agency to carry out its responsibilities under the National Security Act of 1947 as amended, the CIA Act of 1949 as amended, Executive Order 12333 or any successor order, applicable national security directives, or classified implementing procedures

approved by the Attorney General and promulgated pursuant to such statutes, orders or directives.

11. To the Office of Management and Budget when necessary to the review of private relief legislation pursuant to OMB Circular No. A–19.

POLICIES AND PRACTICE FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on paper and electronically in a secure location.

RETRIEVABILITY:

Background investigation files are retrieved by name, Social Security number (SSN), or fingerprint.

SAFEGUARDS:

For paper records: Comprehensive paper records are kept in locked metal file cabinets in locked rooms in HUD Headquarters, in the Office of Security and Emergency Planning, which is the office responsible for suitability determinations. Some paper records (limited in number and scope) are kept in the HUD's Regional Human Resources in locked metal file cabinets in locked rooms. Access to the records is limited to those employees who have a need for them in the performance of their official duties.

For electronic records: Comprehensive electronic records are kept in the Office of Security and Emergency Planning. Access to the records is restricted to those with specific role in the PIV process that requires access to background investigation forms to perform their duties, and who have been given a password to access that part of the system including background investigation records. An audit trail is maintained and reviewed periodically to identify unauthorized access. Persons given roles in the PIV process must complete training specific to their roles to ensure they are knowledgeable about how to protect individually identifiable information.

RETENTION AND DISPOSAL:

These records are retained and disposed of in accordance with General Records Schedule 18, item 22a, approved by the National Archives and Records Administration (NARA). The records are disposed in accordance with HUD's disposal policies. Records are destroyed upon notification of death, or not later than five years after separation or transfer of employee to another agency or department, whichever is applicable.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Security and Emergency Planning, 451 Seventh Street, SW., Washington, DC 20410.

NOTIFICATION AND RECORD ACCESS PROCEDURES:

Individuals seeking to determine whether this system of records contains information about them, or those seeking access to such records, should address inquiries to the Director, Office of Security and Emergency Planning, 451 Seventh St., SW., Washington, DC 20410. Written requests must include the full name, current address, and telephone number of the individual making the request, including a description of the requester's relationship to the information in question. The System Manager will accept inquiries from individuals seeking notification of whether the system contains records pertaining to them.

CONTESTING RECORD PROCEDURES:

The procedures for requesting amendment or correction of records appear in 24 CFR 16. If additional information or assistance is required, contact the Privacy Act Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410

RECORD SOURCE CATEGORIES:

Depending on the level of background investigation being conducted, information may be obtained from a variety of sources, including the employee, contractor, or applicant via use of the SF--85, SF–85P, or SF–86, as well as personal interviews; employers' and former employers' records; FBI criminal history records and other databases; financial institutions and credit reports; medical records and health care providers; educational institutions; interviews of witnesses such as neighbors, friends, co-workers, business associates, teachers, landlords, or family members; tax records; and other public records. Security violation information is obtained from a variety of sources, such as guard reports, security inspections, witnesses, supervisor's reports, audit reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

Upon publication of a final rule in the **Federal Register,** this system of records will be exempt in accordance with 5 U.S.C. 552a(k)(5). Information will be withheld to the extent it identifies witnesses promised confidentiality as a condition of providing information during the course of the background investigation.

[FR Doc. E6–15492 Filed 9–18–06; 8:45 am]
BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Chesapeake Marshlands National Wildlife Refuge Complex (Including Blackwater, Martin and Susquehanna National Wildlife Refuges)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability: Final comprehensive conservation plan and finding of no significant impact.

SUMMARY: The Fish and Wildlife Service (Service) announces that the final Comprehensive Conservation Plan (CCP) is available for Chesapeake Marshlands National Wildlife Refuge (NWR) Complex (including Blackwater, Martin and Susquehanna NWRs). This CCP is required pursuant to the National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668 dd *et seq.*), and the National Environmental Policy Act of 1969. The CCP describes how the Service intends to manage the complex over the next 15 years.

ADDRESSES: Copies of the CCP are available on compact diskette or in hard copy, and may be obtained by writing Bill Perry, Refuge Planner, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, MA 01035, or by electronic mail at *northeastplanning@fws.gov*. These documents may also be accessed at the Web address *http://library.fws.gov/ccps.htm*.

FOR FURTHER INFORMATION CONTACT: Bill Perry, Refuge Planner at the above address, 413–253–8371, or electronic mail at *Bill_Perry@fws.gov*.

SUPPLEMENTARY INFORMATION: The purpose of developing a CCP is to provide refuge managers with a 15-year strategy for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife science, legal mandates, and Service policies. In addition to outlining broad management direction on conserving wildlife and habitats, a CCP identifies wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental

education and interpretation. The CCP will be reviewed and updated at least every 15 years.

Established in 1933, Blackwater NWR is the oldest and largest in the complex. It encompasses 23,686 acres and consists of extensive marshes, moist-soil impoundments, and croplands that form a mosaic of habitats important to migrating and wintering waterfowl. The forests of Blackwater NWR provide unique and important habitats for a variety of migratory songbirds, the bald eagle, and the largest remaining population of the Federal-listed endangered Delmarva fox squirrel. Martin NWR was established in 1954. It consists of 4,569 acres and is closed to the public. Tidal marsh, coves and creeks and vegetated ridges form a habitat complex important to thousands of migratory waterfowl and nesting songbirds. Susquehanna NWR was established in 1942 and consists of a 4-acre island with scattered trees mixed in with grass and shrubs. Eastern Neck NWR is a 2,286-acre refuge that was established in 1962. This refuge is not included in this CCP, and will undergo the planning process for a CCP at a later date.

Our final CCP includes management direction for each of the three refuges, and includes habitat management and public use goals and objectives based on the vision for the refuge that has been developed as a part of the CCP process. Our adopted management direction represents adaptive management based on the results of scientific survey and monitoring programs. It focuses on restoring, enhancing, and maintaining ecological processes and natural biological communities and biodiversity. It emphasizes managing the complex for the benefit of all migratory bird species, maintaining and recovering endangered or threatened species, restoring submerged aquatic vegetation and wetlands, reducing or eliminating invasive plant and animal species, and adding research and inventories, including those for butterflies, reptiles, amphibians and fish.

The final CCP includes the decision to expand the boundary of Blackwater NWR, primarily through partnerships and easements, in two areas: 15,300 acres surrounding the refuge, and 16,000 acres east of the refuge along the Nanticoke River. All of that acreage contains low-lying forest and marsh habitats.

Finally, the CCP improves our ability to provide opportunities for compatible, wildlife-dependent recreation. This includes a new, accessible fishing pier and parking area at Key Wallace Bridge, new hiking and canoe trails, a canoe access ramp and wetland observation deck, rebuilding the wildlife observation tower, remodeling and expanding the visitor center, updating the exhibits at the center, enhancing signage, providing new hunting opportunities for turkey, resident Canada geese, and waterfowl, and providing many more outreach and environmental education programs.

The Service solicited comments on the draft CCP/EA for Chesapeake Marshlands NWR Complex from May 3 through July 15, 2005. We developed a list of substantive comments that required responses. Editorial suggestions and notes of concurrence with, or opposition to, certain proposals were noted and included in the decision making process, but did not receive formal responses. The final CCP includes responses to all substantive comments. Comments are considered substantive if they:

- Question, with reasonable basis, the accuracy of the information in the document,
- Question, with reasonable basis, the adequacy of the environmental analysis,
- Present reasonable alternatives other than those presented in the EA,
- Cause changes or revisions in the CCP,
- Provide new or additional information relevant to the analysis.

Based upon the comments we received, we chose management alternative B to develop into the final CCP, with the following modifications:

- *Land Protection:* We received a mixed response to the proposed boundary expansion. While there was a degree of support, a number of comments expressed concern about the scope of the Land Protection Plan (LPP) and proposed boundary expansion. Some comments indicated a concern about the potential for condemnation of land by the Service.

We revised the LPP to include protection measures other than fee-title acquisition for the Nanticoke Division of Blackwater NWR. The use of easements and management agreements, for example, is authorized for this division. Fee-title acquisition is authorized only for the boundary expansion contiguous to the existing Blackwater NWR.

- *Marshbird Habitat Improvement:* We received comments that the CCP should recognize the distinctness and conservation value of the brackish marsh bird community and plan for its long term management.

We have added a new objective to Goal 1 to capture the significance of the brackish marsh bird community and future management strategies, including the need to adaptively manage fire in marsh ecosystems.

Dated: August 7, 2006.

Richard O. Bennett,

Acting Regional Director, U.S. Fish and Wildlife Service, Hadley, Massachusetts.

[FR Doc. E6–15507 Filed 9–18–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Recovery Plan for Camissonia benitensis (San Benito evening-primrose)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of the Recovery Plan for *Camissonia benitensis* (San Benito evening-primrose). This plant species is found primarily in the Clear Creek Management Area (CCMA) in San Benito County, California; the CCMA is managed by the Hollister Field Office of the Bureau of Land Management.

ADDRESSES: Printed copies of this recovery plan will be available in 4 to 6 weeks by request from the Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, California 93003 (phone: 805/644–1766). An electronic copy of this recovery plan is now available on the World Wide Web at *http://endangered.fws.gov/recovery/index.html#plans.*

FOR FURTHER INFORMATION CONTACT: Connie Rutherford, botanist, at 805/644–1766.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of our endangered species program. The Endangered Species Act (16 U.S.C. 1531 *et seq.*) (Act) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Recovery plans help guide the recovery effort by describing actions considered necessary for the conservation of the species, establishing criteria for downlisting or delisting listed species, and estimating time and cost for implementing the measures needed for recovery.

Section 4(f) of the Act requires that public notice and an opportunity for

public review and comment be provided during recovery plan development. In fulfillment of this requirement, information presented during the public comment period and comments from peer reviewers have been considered in the preparation of this final recovery plan, and are summarized in Appendix D to the recovery plan. We will forward substantive comments regarding recovery plan implementation to appropriate Federal or other entities so they can take these comments into account during the course of implementing recovery actions.

Camissonia benitensis was listed as threatened in 1985 and is associated with serpentine-derived soils within the San Benito serpentine body in the southern Coast Ranges of California. Populations of *Camissonia benitensis* are usually found on small streamside terraces that have formed at the base of slopes within watersheds that flow off of San Benito Mountain, which, at 5,247 feet (2,000 meters), is the highest point in this stretch of the Coast Ranges. The entire range of the species spans an area about 20 miles long and 5 miles wide.

Camissonia benitensis is an ephemeral annual species whose numbers of individuals can fluctuate drastically from year to year. While favorable climatic conditions in an occasional year may result in tens of thousands of individuals, more often populations are small in numbers of individuals and in the amount of acreage they occupy.

The primary threat to *Camissonia benitensis* is off-highway vehicle recreation activity in the CCMA. Although most terrace sites that support occupied or suitable habitat for the species have been administratively closed and either wholly or partially fenced by the Bureau, off-highway vehicles continue to access a certain number of these sites and cause direct damage to plants and their habitat. Other forms of recreation such as rock collecting, hunting, and nature hiking are comparatively minor threats. In addition, the natural erosion rate of the serpentine slopes above the terraces is exacerbated by human recreational activities that contribute to deposition on top of the terraces as well as erosion of the terraces due to sediment loading of streams and subsequent flooding.

The objective of a recovery plan is to provide a framework for the recovery of the species so that protection by the Act is no longer necessary. Actions necessary to accomplish this objective include: (1) Protecting existing populations and suitable habitat, (2) reducing or eliminating soil erosion and stream sedimentation in the watersheds that support habitat for the species, (3) developing a species management plan that includes needed research and monitoring, (4) establishing an *ex situ* seed collection, and (5) developing and implementing a public outreach program.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Steve Thompson,

Manager, California-Nevada Operations Office, U.S. Fish and Wildlife Service.

[FR Doc. E6–15508 Filed 9–18–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Draft Recovery Plan for the Nosa Luta or Rota Bridled White-eye (Zosterops rotensis)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability for review and comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of the Draft Recovery Plan for the Nosa Luta or Rota Bridled White-eye (*Zosterops rotensis*), for public review and comment.

DATES: Comments on the draft recovery plan must be received on or before November 20, 2006.

ADDRESSES: Copies of the draft recovery plan are available by request from the U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Boulevard, Room 3–122, Box 50088, Honolulu, Hawaii 96850 (phone: 808/792–9400). Written comments and materials regarding this draft recovery plan should be addressed to the Field Supervisor at the above Honolulu address. An electronic copy of the draft recovery plan is also available at *http://endangered.fws.gov/recovery/index.html#plans.*

FOR FURTHER INFORMATION CONTACT: Fred Amidon, Fish and Wildlife Biologist, at the above Honolulu address.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of our endangered species program. The Endangered Species Act (16 U.S.C. 1531 *et seq.*) (ESA) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Recovery plans help guide the recovery effort by describing actions considered necessary for the conservation of the species, establishing criteria for downlisting or delisting listed species, and estimating time and cost for implementing the measures needed for recovery.

Section 4(f) of the ESA requires that public notice, and an opportunity for public review and comment, be provided during recovery plan development. We will consider all information presented during the public comment period prior to approval of each new or revised recovery plan. Substantive comments on the recovery needs of the species or other aspects of recovery plan development may result in changes to the recovery plan. Substantive comments regarding recovery plan implementation may not necessarily result in changes to the recovery plan, but will be forwarded to appropriate Federal or other entities so that they can take these comments into account during the course of implementing recovery actions. Individual responses to comments will not be provided.

The Rota bridled white-eye, known as nosa Luta in Chamorro, is a bird endemic to the island of Rota in the Mariana archipelago and was federally listed as endangered in 2004 (January 22, 2004, 69 FR 3022). In 1999, the population was estimated to be approximately 1,000 individuals, representing a 90 percent decline since 1982, and the species' core range consisted of approximately 628 acres (254 hectares) of forest above 490 feet (150 meters) elevation. Available information indicates that habitat loss and degradation and predation by introduced rats (*Rattus* spp.) and black drongos (*Dicrurus macrocercus*) are having some impact on the nosa Luta population. Due to its restricted range and small population size, the species is also highly susceptible to random catastrophic events such as typhoons and the accidental introduction of new predators such as the brown treesnake (*Boiga irregularis*), and avian diseases such as West Nile virus.

The draft recovery plan for the nosa Luta focuses on the following actions: (1) Protecting and enhancing forests in the species' range; (2) determining the specific habitat requirements of the nosa Luta to manage areas for the species' conservation; (3) assessing the impact of predation by black drongos and rats, and controlling these species as appropriate; (4) preventing the

introduction of new predators and avian diseases; and (5) developing techniques to safeguard the species from extinction due to random catastrophic events.

The immediate goals of the draft recovery plan are to stop further declines in the range and composition of the nosa Luta population, develop safeguards to prevent the species from going extinct, and restore the population to at least the abundance levels estimated in 1982 (10,000 individuals). In addition to suggesting actions to address the immediate threats to the species, the draft recovery plan calls for research to determine the specific habitat requirements and life history parameters of the nosa Luta to inform long-term management decisions for the effective recovery of the species.

Public Comments Solicited

We solicit written comments on the draft recovery plan described. All comments received by the date specified above will be considered prior to approval of this plan.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home addresses from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment, but you should be aware that we may be required to disclose your name and address pursuant to the Freedom of Information Act. 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. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533 (f).

Dated: June 6, 2006.

Carolyn A. Bohan,

Acting Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. E6–15510 Filed 9–18–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Geological Survey

National Cooperative Geologic Mapping Program (NCGMP) Advisory Committee

AGENCY: U.S. Geological Survey.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 106–148, the NCGMP Advisory Committee will meet in Room 3B457 of the John Wesley Powell Building, 12201 Sunrise Valley Drive, Reston, VA. The Advisory Committee, composed of scientists from Federal Agencies, State Agencies, academic institutions, and private companies, will advise the Director of the U.S. Geological Survey on planning and implementation of the geologic mapping program.

At this meeting, the Advisory Committee will participate in the following efforts:

- An external review of the NCGMP by the American Association for the Advancement of Science.
- Discussion with the Program Coordinator on the progress of the USGS National Geological and Geophysical Data Preservation Program.

DATES: October 11–12, 2006 commencing at 9 a.m. on October 11 and adjourning by early afternoon on October 12.

FOR FURTHER INFORMATION CONTACT: Randall Orndorff, U.S. Geological Survey, 908 National Center, Reston, Virginia 20192, (703) 648–4316.

SUPPLEMENTARY INFORMATION: Meetings of the National Cooperative Geological Mapping Program Advisory Committee are open to the Pubic.

Dated: September 13, 2006.

Peter T. Lyttle,

Acting Associate Director for Geology.

[FR Doc. 06–7741 Filed 9–18–06; 8:45 am]

BILLING CODE 4311–AM–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1320–EL, WYW172927]

Notice of Invitation for Coal Exploration License Application, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Invitation for Coal Exploration License Application, Ark Land Company, WYW172927, Wyoming.

SUMMARY: Pursuant to Section 2(b) of the Mineral Leasing Act of 1920, as amended by section 4 of the Federal Coal Leasing Amendments Act of 1976, 90 Stat. 1083, 30 U.S.C. 201 (b), and to the regulations adopted as 43 Code of Federal Regulations (CFR) 3410, all interested qualified parties, as provided in 43 CFR 3472.1, are hereby invited to participate with Ark Land Company on a pro rata cost sharing basis in its program for the exploration of coal deposits owned by the United States of America in the following-described lands in Campbell County, WY:

T. 42 N., R. 71 W., 6th P.M., Wyoming
Sec. 1: Lots 7 through 10, 15 through 18;
Sec. 2: Lots 5 through 20;
T. 43 N., R. 71 W., 6th P.M., Wyoming
Sec. 8: Lots 1 through 16;
Sec. 9: Lots 1 through 16;
Sec. 10: Lots 1 through 16;
Sec. 15: Lots 1 through 16;
Sec. 17: Lots 1 through 16;
Sec. 20: Lots 1 through 4;
Sec. 21: Lots 3, 4.
Containing 4,465.98 acres, more or less.

DATES: Any party electing to participate in this exploration program must send written notice to both the Bureau of Land Management and Ark Land Company, as provided in the **ADDRESSES** section below, no later than thirty days after publication of this Notice of Invitation in the **Federal Register**.

ADDRESSES: Copies of the exploration plan are available for review during normal business hours in the following offices (serialized under number WYW172927): Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, WY 82003; and, Bureau of Land Management, Casper Field Office, 2987 Prospector Drive, Casper, WY 82604. The written notice should be sent to the following addresses: Ark Land Company, Attn: Mike Lincoln, P.O. Box 460, Hanna, WY 82327, and the Bureau of Land Management, Wyoming State Office, Branch of Solid Minerals, Attn: Mavis Love, P.O. Box 1828, Cheyenne, WY 82003.

SUPPLEMENTARY INFORMATION: All of the coal in the above-described land consists of unleased Federal coal within the Powder River Basin Known Coal Leasing Area. The purpose of the exploration program is to gain additional geologic knowledge of the coal underlying the exploration area for the purpose of assessing the reserves contained in a potential lease. This Notice of Invitation will be published in The News-Record of Gillette, WY, once each week for two consecutive weeks beginning the week of September 11, 2006, and in the **Federal Register**.

The foregoing notice is published in the **Federal Register** pursuant to 43 CFR 3410.2–1(c)(1).

Dated: August 25, 2006.

Alan Rabinoff,

Deputy State Director, Minerals and Lands.

[FR Doc. E6–15544 Filed 9–18–06; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before September 2, 2006. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St., NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by October 4, 2006.

John W. Roberts,

Acting Chief, National Register/National Historic Landmarks Program.

ARIZONA

Pima County

DeGrazia Gallery in the Sun Historic District, 6300 N. Swan Rd., Tucson, 06000932.

COLORADO

Larimer County

Snogo Snow Plow, Rocky Mountain National Park, Estes Park, 06000934.

HAWAII

Maui County

Maui High School Administration Building, 100 Holomua Rd., Paia, 06000933.

INDIANA

Ohio County

Rising Sun Historic District, Roughly bounded by the Union and Soldier's Cemeteries, High St., Front St., and Maiden Ln., Rising Sun, 06000935.

MASSACHUSETTS

Berkshire County

Montville Baptist Church, 5 Hammertown Rd., Sandisfield, 06000936.

MONTANA

Flathead County

Bruyer Granary, 1355 Whitefish Stage Rd., Kalispell, 06000937.

OREGON

Klamath County

Bisbee Hotel, 229 S. 6th St., Klamath Falls, 06000938.

WYOMING

Laramie County

Cheyenne South Side Historic District, Roughly bounded by Warren Ave., Russell Ave., E. Tenth St., and E Fifth St., Cheyenne, 06000939.

A request for REMOVAL has been made for the following resource:

IOWA

Johnson County

Opera House Block, 210–212 S. Clinton St. Iowa City, 78001228.

[FR Doc. E6–15497 Filed 9–18–06; 8:45 am]

BILLING CODE 4312–51–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–2104–023]

U.S.-Colombia Trade Promotion Agreement: Potential Economy-Wide and Selected Sectoral Effects

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

EFFECTIVE DATE: September 14, 2006.

SUMMARY: Following receipt of a request from the United States Trade Representative (USTR) on August 25, 2006, the Commission instituted investigation No. TA–2104–023, *U.S.-Colombia Trade Promotion Agreement: Potential Economy-wide and Selected Sectoral Effects*, under section 2104(f) of the Trade Act of 2002 (19 U.S.C. 3804(f)), for the purpose of assessing the likely impact of the U.S. Trade Promotion Agreement (TPA) with Colombia on the United States economy as a whole and on specific industry sectors and the interests of U.S. consumers.

FOR FURTHER INFORMATION CONTACT: Project Leaders James Stamps, Office of Economics (202–205–3227; *james.stamps@usitc.gov*) or Michelle Vaca-Senecal, Office of Industries (202–205–3356; *michelle.vaca@usitc.gov*)]. For information on legal aspects, contact William Gearhart of the Office of the General Counsel (202–205–3091; *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819; *margaret.olaughlin@usitc.gov*).

Background: As requested by the USTR, the Commission will prepare a report as specified in section 2104(f)(2)–(3) of the Trade Act of 2002 assessing the likely impact of the U.S. Trade Promotion Agreement with Colombia on the U.S. economy as a whole and on specific industry sectors, including the impact the agreement will have on the gross domestic product, exports and imports; aggregate employment and employment opportunities; the production, employment, and competitive position of industries likely to be significantly affected by the agreement; and the interests of U.S. consumers.

In preparing its assessment, the Commission will review available economic assessments regarding the agreement, including literature concerning any substantially equivalent proposed agreement, and will provide in its assessment a description of the analyses used and conclusions drawn in such literature, and a discussion of areas of consensus and divergence between the various analyses and conclusions, including those of the Commission regarding the agreement.

Section 2104(f)(2) requires that the Commission submit its report to the President and the Congress not later than 90 days after the President enters into the agreement, which he can do 90 days after he notifies the Congress of his intent to do so. On August 24, 2006, the President notified the Congress of his intent to enter into a TPA with Colombia. The USTR requested that the Commission provide the report as soon as possible.

Public Hearing: A public hearing in connection with the investigation is scheduled to begin at 9:30 a.m. on October 5, 2006, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. All persons shall have the right to appear, by counsel or in person, to present information and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436, no later than 5:15 p.m., September 25, 2006. Any prehearing briefs should be filed no later than 5:15 p.m., September 29, 2006, and any posthearing briefs or statements should be filed no later than 5:15 p.m., October 16, 2006; all such briefs and statements must be submitted in accordance with the requirements below under "written submissions." In the event that, as of the close of business on September 25, 2006, no witnesses are

scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or nonparticipant may call the Secretary to the Commission (202–205–2000) after September 25, 2006, for information concerning whether the hearing will be held.

Written Submissions: In lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements concerning the matters to be addressed by the Commission in its report on this investigation. Submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436. To be assured of consideration by the Commission, written statements related to the Commission's report should be submitted to the Commission at the earliest practical date and should be received no later than 5:15 p.m., October 16, 2006.

All written submissions must conform with the provisions of § 201.8 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 of the rules requires that a signed original (or copy designated as an original) and fourteen (14) copies of each document be filed. In the event that confidential treatment of the document is requested, at least four (4) additional copies must be filed, in which the confidential business information must be deleted (see the following paragraph for further information regarding confidential business information). The Commission's rules do not authorize filing submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *ftp://ftp.usitc.gov/pub/reports/electronic_filing_handbook.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000 or *edis@usitc.gov*).

Any submissions that contain confidential business information must also conform with the requirements of § 201.6 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the "confidential" or "nonconfidential" version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available in the Office of the Secretary to the Commission for inspection by interested parties.

The Commission intends to prepare only a public report in this investigation. The report that the Commission sends to the President and the Congress and makes available to the public will not contain confidential business information. Any confidential business information received by the Commission in this investigation and used in preparing the report will not be published in a manner that would reveal the operations of the firm supplying the information.

The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) *http://edis.usitc.gov*. Hearing impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

By order of the Commission.

Issued: September 14, 2006.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 06–7780 Filed 9–18–06; 8:45 am]

BILLING CODE 7020–02–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that five meetings of the Arts Advisory Panel to the National Council on the Arts will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 as follows (ending times are approximate):

Learning in the Arts (application review): October 4–6, 2006 in Room 716. A portion of this meeting, from 3:30 p.m. to 4 p.m. on October 6th, will be open to the public for a policy discussion. The remainder of the meeting, from 9 a.m. to 5 p.m. on October 4th and 5th and from 9 a.m. to 3:30 p.m. and from 4 p.m. to 4:30 p.m. on October 6th, will be closed.

Learning in the Arts (application review): October 10–13, 2006 in Room 716. A portion of this meeting, from 4:15 p.m. to 5 p.m. on October 13th, will be open to the public for a policy discussion. The remainder of the meeting, from 8:30 a.m. to 6 p.m. on October 10th and 12th, from 8:30 a.m. to 5:30 p.m. on October 11th, and from 8:30 a.m. to 4:15 p.m. and from 5 p.m. to 6 p.m. on October 13th, will be closed.

Learning in the Arts (application review): October 25, 2006 in Room 716. A portion of this meeting, from 3:45 p.m. to 4:15 p.m., will be open to the public for a policy discussion. The remainder of the meeting, from 9 a.m. to 3:45 p.m. and from 4:15 p.m. to 4:45 p.m., will be closed.

Learning in the Arts (application review): October 26–27, 2006 in Room 716. A portion of this meeting, from 5:30 p.m. to 6 p.m. on October 27th, will be open to the public for a policy discussion. The remainder of the meeting, from 8:30 a.m. to 6:30 p.m. on October 26th and from 8:30 a.m. to 5:30 p.m. and from 6 p.m. to 6:45 p.m. on October 27th, will be closed.

Design (application review): October 30–31, 2006 in Room 730. This meeting, from 9 a.m. to 5 p.m. on October 30th and from 9 a.m. to 2 p.m. on October 31st, will be closed.

The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of April 8, 2005, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman. If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: September 12, 2006.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. E6–15496 Filed 9–18–06; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received under the Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by October 19, 2006. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Dr. Polly A. Penhale at the above address or (703) 292–7405.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

The applications received are as follows:

1. *Applicant:* Charles D. Amsler, Jr. (Permit Application No. 2007–002), Department of Biology, University of Alabama, Birmingham, AL 35294–1170.

Activity for Which Permit is Requested: Introduce a non-indigenous species into Antarctica, and import into the U.S.A. The applicant plans to return cultures, collected in Antarctica, of filamentous macroalgae and diatoms to Antarctica for use in feeding bioassays. The amphipods are offered algae from culture and extractor bioassays where the effects of secondary metabolites extracted from large macroalgae are measured onalgae from culture. These cultures will be autoclaved at the conclusion of the field season. The applicant also plans to collect filamentous brown algal endophytes for return to the U.S. for identification and additional extract bioassays. They will be maintained in culture at the University of Alabama, Birmingham.

Location: Palmer Station, Antarctica.

Dates: January 1, 2007 to July 31, 2008.

2. *Applicant:* Rennie S. Holt (Permit Application No. 2007–003), Director, AMLR Program, Southwest Fisheries Science Center, National Marine Fisheries Service, 8604 La Jolla Shores Drive, La Jolla, CA 92038.

Activity for Which Permit is Requested: Take, Enter Antarctic Specially Protected Area, and Import into the U.S. The applicant plans to census and capture up to 600 pup, 50 juvenile and 60 adult Antarctic fur seals, and 20 leopard seals for the purpose of tagging, instrumentation, extraction of blood, and milk samples. The samples collected will further the study of attendance, diving, foraging, diet, age determination, pathology and long-term monitoring of Leopard and Antarctic fur seals at Cape Shirreff Antarctic Specially Protected Area. In addition the applicant plans to capture, band and release up to 1500 Chinstrap penguins, 500 Gentoo penguins, 100 Cape Petrels, Giant Petrels, Sheathbills, and Kelp gulls, 200 South Polar Skuas and Brown Skuas, and Blue Eyed Shags. The applicant plans to salvage carcasses and bones of dead animals found on the beach. Collected samples and dead specimens will be returned to the U.S. for further study.

Location: Cape Shirreff, Livingston Island (ASMA #149) (including San Telmo Islands), Seal Island, and King George Island.

Dates: November 1, 2006 to April 30, 2011.

3. *Applicant:* Bruce D. Sidell, (Permit Application No. 2007–007), School of Marine Sciences, University of Maine, Orono, MA 04469–5751.

Activity for Which Permit is Requested: Take, Introduce Non-indigenous Species into Antarctica, and Enter Antarctic Specially Protected Area. The applicant proposes to use frozen fish bait (*M. magellanicus* and *D. eleginoides*), purchased in Chile, in frozen 10–15 kg blocks for use in fish traps/pots to capture Antarctic fishes for physiology and biochemistry studies.

Location: Western Bransfield Strait (ASPA #152) and East Dallman Bay (ASPA #153).

Dates: April 1, 2007 to June 30, 2007.

4. *Applicant:* Brenda Hall (Permit Application No. 2007–009), Climate Change Institute, University of Maine, Orono, ME 04469.

Activity for Which Permit is Requested: Enter Antarctic Specially Protected Area. The applicant proposes to enter the New College Valley, Cape Bird Specially Protected Area (ASPA #116) to dig small (<1 m) pits and excavate seal hair/skin and, if present, penguin bones. Pits will be backfilled and surface material replaced. By examining abandoned colonies, the applicant can reconstruct the seal and penguin populations over time and identify when these animals were not present in the Ross Sea area. It has been determined that elephant seals had used the Scott Coast but heavy ice conditions caused them to shift locations. The applicant wishes to search the Cape Bird area for elephant seals remains. The excavated samples will help to determine if elephant seals had previously occupied Cape Bird.

Location: New College Valley, Cape Bird (ASPA #116), Ross Island.

Dates: December 20, 2006 to February 20, 2007.

5. *Applicant:* Robert A. Blanchette, (Permit Application No. 2007–010), 495 Borlaug Hall, 991 Upper Buford Circle, University of Minnesota, St. Paul, MN 55018–6030.

Activity for Which Permit is Requested: Enter Antarctic Specially Protected Areas. The applicant proposes enter historic sites to investigate the biological and non-biological deterioration processes to help develop conservation plans to preserve important historic structures and artifacts in Antarctica. Sampling of wood, soil, and other organic materials will be done to assess and characterize microbial populations at the various sites.

Location: Historic huts of the Ross Sea: Discovery Hut (ASPA 157); Cape Evans (ASPA 154); Cape Royds (ASPA 156); and, Cape Adare. Peninsula historic artifacts at Deception Island, Livingston Island, East Base ND E Station at Stonington Island, Port Lockroy, Wordie House (Faraday), Detaille Island, Horseshoe Island and Blaiklock Island.

Dates: September 1, 2006 to September 30, 2009.

6. *Applicant:* Same Feola, (Permit Application No. 2007–015), Program Director, Raytheon Polar Service

Company, 7400 S. Tuscon Way, Centennial, CO 80112.

Activity for Which Permit is Requested: Enter Antarctic Specially Protected Areas. The applicant proposes that it's two chartered vessels, *Nathaniel B. Palmer* and *Laurence M. Gould,* will transit, when necessary, through the following Marine Specially Protected Areas: Port Foster, Deception Island (ASPA 145), Western Bransfield Strait (ASPA 152), and East Dallman Bay (ASPA 153). Transit through these areas are for scientific purposes and the sites will be avoided whenever possible.

Location: Port Foster, Deception Island (ASPA 145), Western Bransfield Strait (ASPA 152), and East Dallman Bay (ASPA 153).

Dates: September 1, 2006 to September 30, 2011.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. 06–7740 Filed 9–18–06; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received under the Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by October 19, 2006. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy at the above address or (703) 292–7405.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

The applications received are as follows:

1. *Applicant:* Mahlon C. Kennicutt, II (Permit Application No. 2007–012), Director, Sustainable Development, Office of the Vice President for Research, 1112 TAMU, College Station, TX 77843–1112.

   Activity for Which Permit Is Requested: Take, Enter Antarctic Specially Protected Area, and Import into the U.S.A. The applicant plans to enter the Arrival Heights Antarctic Specially Protected Area (ASPA #122) for the purpose of collecting soil samples and permafrost measurements as part of an ongoing environmental monitoring program. The applicant also plans to use Bratina Island as a control site.

   Location: Bratina Island and Arrival Heights (ASPA #122).

   Dates: November 21, 2006 to December 31, 2006.

2. *Applicant:* Evan Bloom (Permit Application No. 2007–013), OES/OA, Rm. 2665, Department of State, 2201 C Street, NW., Washington, DC 20520.

   Activity for Which Permit Is Requested: Enter Antarctic Specially Protected Area. The applicant plans to enter the Cape Shirreff Antarctic Specially Protected Area #149 for the purpose of conducting an Antarctic Treaty Inspection of the Chilean Field Camp of Guillermo Mann and the U.S. (NOAA) Cape Shirreff Field Station.

   Location: Cape Shirreff, Livingston Island (ASMA #149).

   Dates: November 12, 2006 to December 1, 2006.

3. *Applicant:* Kam W. Tang (Permit Application No. 2007–014), Virginia Institute of Marine Science, P.O. Box 1346, 1208 Greate Road, Gloucester Point, VA 23062.

   Activity for Which Permit Is Requested: Introduce Non-indigenous Species into Antarctica, Take and Import into the U.S.A. The applicant proposes to bring previously caught Antarctic phytoplankton (*Phaeocystis Antarctica, Ciliate—species unknown, Rhodomonas salina* and *Dunaliella tertiolecta*) to Crary Lab at McMurdo Station for use in a series of incubation experiments to determine the growth, photosynthetic activities and trophic processes under controlled conditions. All experiments will be conducted using contained incubators. All cultures will be properly disposed of at the end of the field season. The applicant also plans to collect 50 L of phytoplankton for scientific study in the U.S.

   Location: Crary Lab, McMurdo Station, Antarctica.

   Dates: December 1, 2006 to February 28, 2008.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. 06–7748 Filed 9–18–06; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Notice of Permit Application Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received under the Antarctic Conservation Act.

SUMMARY: Notice is hereby given that the National Science Foundation (NSF) has received a waste management permit application for operation of a remote field support and emergency provisions for the Expedition Vessel, *Kapitan Khlebnikov* for the 2006–2007 season and two following austral summers. The application is submitted to NSF pursuant to regulations issued under the Antarctic Conservation Act of 1978.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by October 19, 2006. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Dr. Polly A. Penhale, Environmental Officer at the above address or (703) 292–8030.

SUPPLEMENTAL INFORMATION: NSF's Antarctic Waste Regulation, 45 CFR Part 671, requires all U.S. citizens and entities to obtain a permit for use or release of a designated pollutant in Antarctica, and for the release of waste in Antarctica. NSF has received a permit application under this Regulation for the operation of up to nine expeditions per year to Antarctica. During each trip, passengers are taken ashore at selected

sites by Zodiac (rubber raft) or helicopter for approximately two to four hours at a time. On each helicopter's landing, emergency gear would be taken ashore in case weather deteriorates and passengers are required to camp on shore. Anything taken ashore will be removed from Antarctica and disposed of in Ushuaia, Argentina, Port Stanley, Falkland Islands, or a substitute port of disembarkation. No hazardous domestic products or wastes (aerosol cans, paints, solvents, etc.) will be brought ashore. Cooking stoves/fuel will be used only in an emergency where passengers are forced to spend night on shore. Conditions of the permit would include requirements to report on the removal of materials and any accidental releases, and management of all waste, including human waste, in accordance with Antarctic waste regulations.

Application for the permit is made by: Pat Shaw, President, Quark Expeditions, Inc., 1019 Boston Post Road, Darien, CT 06820.

Location: Antarctica (south of 60 degrees south latitude).

Dates: October 1, 2006 to March 31, 2009.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 06–7755 Filed 9–18–06; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Astronomy and Astrophysics Advisory Committee #13883; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following Astronomy and Astrophysics Advisory Committee (#13883) meeting:

Date and Time: October 12–13, 2006, 8:30 a.m.–5 p.m.

Place: National Science Foundation, Room 1235, Stafford I Building, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Dr. G. Wayne Van Citters, Director, Division of Astronomical Sciences, Suite 1045, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: 703–292–4908. Additional information is available at *www.nsf.gov/mps/ast/aaac.jsp.*

Purpose of Meeting: To provide advice and recommendations to the National Science Foundation (NSF), the National Aeronautics and Space Administration (NASA) and the U.S. Department of Energy (DOE) on issues within the field of astronomy and astrophysics that are of mutual interest and concern to the agencies.

Agenda: To hear presentations of current programming by representatives from NSF, NASA, DOE and other agencies relevant to astronomy and astrophysics; to discuss current and potential areas of cooperation between the agencies; to formulate recommendations for continued and new areas of cooperation and mechanisms for achieving them.

Dated: September 14, 2006.

Susanne E. Bolton,

Committee Management Officer.

[FR Doc. 06–7750 Filed 9–18–06; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

Name: Proposal Review Panel for Materials Research (DMR) #1203.

Dates & Times: October 5, 2006; 7:45 a.m.–9 p.m., October 6, 2006; 8 a.m.–4:30 p.m.

Place: Stanford University, Palo Alto, CA.

Type of Meeting: Part-Open.

Contact Person: Dr. Thomas Rieker, Program Director, Materials Research Science and Engineering Centers Program, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–4914.

Purpose of Meeting: To provide advice and recommendations concerning further support of the Materials Research Science and Engineering Center.

Agenda

Thursday, October 5, 2006

7:45 a.m.–8:45 a.m. Closed—Executive session.

8:45 a.m.–4:15 p.m. Open—Review of the Materials Research Science and Engineering Center at Stanford University.

4:15 p.m.–5:30 p.m. Closed—Executive session.

5:30 p.m.–9 p.m. Open—Poster session and Dinner.

Friday, October 6, 2006

8 a.m.–8:45 a.m. Closed—Executive session.

8:45 a.m.–10:45 a.m. Open—Review of the Materials Research Science and Engineering Center at Stanford University.

10:45 a.m.–4:30 p.m. Closed—Executive Session, Draft and Review Report, brief the center director.

Reason for Closing: The work being reviewed may include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 522b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 14, 2006.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 06–7749 Filed 9–18–06; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Sunshine Act Notice

DATE: Weeks of September 18, 25, October 2, 9, 16, 23, 2006.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and closed.

MATTERS TO BE CONSIDERED:

Week of September 18, 2006

There are no meetings scheduled for the Week of September 18, 2006.

Week of September 25, 2006—Tentative

There are no meetings scheduled for the Week of September 25, 2006.

Week of October 2, 2006—Tentative

There are no meetings scheduled for the Week of October 2, 2006.

Week of October 9, 2006—Tentative

There are no meetings scheduled for the Week of October 9, 2006.

Week of October 16, 2006—Tentative

Monday, October 16, 2006

9:30 a.m. Briefing on Status of New Reactor Issues—Combined Operating Licenses (COLS) (morning session).

1:30 p.m. Briefing on Status of New Reactor Issues—Combined Operating Licenses (COLS) (afternoon session). (Public Meetings) (Contact: Dave Matthews, 301–415–1199).

These meetings will be webcast live at the Web address—*http://www.nrc.gov*

Friday, October 20, 2006

2:30 p.m. Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting) (Contact: John Larkins, 301–415–7630).

This meeting will be webcast live at the Web address—*http://www.nrc.gov*

Week of October 23, 2006—Tentative

Wednesday, October 25, 2006

9:30 a.m. Briefing on Institutionalization and Integration of Agency Lessons Learned (Public Meeting) (Contact: John Lamb, 301–415–1727).

This meeting will be webcast live at the Web address—*http://www.nrc.gov*

1:30 p.m. Briefing on Resolution of GSI–191, Assessment of Debris

Accumulation on PWR Sump Performance (Public Meeting) (Contact: Michael L. Scott, 301–415–0565).

This meeting will be webcast live at the Web address—*http://www.nrc.gov*

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301)–415–1292. Contact person for more information: Michelle Schroll, (301) 415–1662.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html.*

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify the NRC's Disability Program Coordinator, Deborah Chan, at 301–415–7041, TDD: 301–415–2100, or by e-mail at *DLC@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting scheduled electronically, please send an electronic message to *dkw@nrc.gov*.

Dated: September 14, 2006.

R. Michelle Schroll

Office of the Secretary.

[FR Doc. 06–7765 Filed 9–15–06; 10:01 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

[EA–06–193]

In the Matter of Louisiana Energy Services L.P. (National Enrichment Facility) and All Other Persons Who Seek or Obtain Access to Safeguards Information Described Herein; Order Imposing Requirements for the Protection of Safeguards Information and Access to New Safeguards Information (Effective Immediately)

I

Louisiana Energy Services, L.P., (LES or the Licensee) holds a license, issued in accordance with the Atomic Energy Act (AEA) of 1954, by the U.S. Nuclear Regulatory Commission (NRC or Commission) authorizing it to construct and operate a uranium enrichment facility in Lea County, New Mexico. On March 19, 2004, in accordance with Commission direction in Staff Requirements Memorandum SECY–03–0083, NRC provided LES, for its information, copies of Orders issued to Category III facilities on interim measures to enhance physical security at those facilities. Those Orders contained Safeguards Information [1]. In addition, in the future, the Commission may issue the Licensee additional Orders that require compliance with specific Additional Security Measures to enhance the security. These Orders are also expected to contain Safeguards Information, which cannot be released to the public and must be protected from unauthorized disclosure. Therefore, the Commission is imposing the requirements, as set forth in Attachments A and B of this Order, so that the Licensee can receive these documents. This Order also imposes requirements for the protection of Safeguards Information in the hands of any person,[2] whether or not a licensee of the Commission, who produces, receives, or acquires Safeguards Information.

On August 8, 2005, the Energy Policy Act of 2005 (EPAct) was enacted. Section 652 of the EPAct amended Section 149 of the AEA to require fingerprinting and a Federal Bureau of Investigation (FBI) identification and criminal history records check of any person who is to be permitted to have access to Safeguards Information. The NRC's implementation of this requirement cannot await the completion of the Safeguards Information rulemaking, which is under way, because the EPAct fingerprinting and criminal history check requirements for access to Safeguards Information were immediately effective upon enactment of the EPAct. Although the EPAct permits the Commission by rule to except certain categories of individuals from the fingerprinting requirement, which the Commission has done (see 10 CFR 73.59, 71 FR 33989 (June 13, 2006)), it is unlikely that many Licensee employees are excepted from the fingerprinting requirement by the "fingerprinting relief" rule. Individuals relieved from the fingerprinting and criminal history checks under the relief rule include Federal, State, and local officials and law enforcement personnel; Agreement State inspectors, who conduct security inspections on behalf of the NRC; members of Congress and certain employees of members of Congress or Congressional Committees; representatives of the International Atomic Energy Agency or certain foreign government organizations. In addition, individuals who have active Federal security clearances and have satisfied the EPAct fingerprinting requirement need not be fingerprinted again. Therefore, in accordance with Section 149 of the AEA, as amended by the EPAct, the Commission is imposing additional requirements, as set forth by this Order, for access to new Safeguards Information [3] by any person, from any person, whether or not a Licensee, Applicant, or Certificate Holder of the Commission or Agreement States.

II

The Commission has broad statutory authority to protect Safeguards Information and prohibit its unauthorized disclosure. Section 147 of the AEA, as amended, grants the Commission explicit authority to "* * * issue such orders, as necessary

[1] Safeguards Information is a form of sensitive, unclassified, security-related information that the Commission has the authority to designate and protect under section 147 of the AEA.

[2] Person means: (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency other than the Commission or the Department of Energy, except that the Department of Energy shall be considered a person with respect to those facilities of the Department specified in section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244), any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

[3] "New Safeguards Information" means Safeguards Information generated subsequent to August 8, 2005, the date of enactment of the EPAct. "New Safeguards Information" also means any Safeguards Information, regardless of when it was generated, that is being accessed by an individual who has never been previously granted access to Safeguards Information.

to prohibit the unauthorized disclosure of safeguards information * * *" Furthermore, Section 652 of the EPAct amended Section 149 of the AEA to require fingerprinting and an FBI identification and a criminal history records check of each individual who seeks access to Safeguards Information. Licensees and all persons who produce, receive, or acquire Safeguards Information must ensure proper handling and protection of Safeguards Information, to avoid unauthorized disclosure, in accordance with the specific requirements for the protection of Safeguards Information contained in Attachments A and B. The Commission hereby provides notice that it intends to treat violations of the requirements contained in Attachments A and B, applicable to the handling and unauthorized disclosure of Safeguards Information, as serious breaches of adequate protection of the public health and safety and the common defense and security of the United States. Access to Safeguards Information is limited to those persons who have established a need-to-know the information, and are considered to be trustworthy and reliable, and who satisfy the fingerprinting and criminal history records check required by the EPAct and this Order. A "need-to-know" means a determination by a person having responsibility for protecting Safeguards Information that a proposed recipient's access to Safeguards Information is necessary in the performance of official, contractual, or licensee duties of employment. The Licensee and all other persons who obtain Safeguards Information must ensure that they develop, maintain, and implement strict policies and procedures for the proper handling of Safeguards Information, to prevent unauthorized disclosure, in accordance with the requirements in Attachments A and B. The Licensee must ensure that all contractors whose employees may have access to Safeguards Information either adhere to the Licensee's policies and procedures on Safeguards Information or develop, maintain, and implement their own acceptable policies and procedures. The Licensee remains responsible for the conduct of its contractors. The policies and procedures necessary to ensure compliance with applicable requirements contained in Attachments A and B must address, at a minimum, the following: (1) The general performance requirement that each person who produces, receives, or acquires Safeguards Information shall ensure that Safeguards Information is protected against unauthorized disclosure; (2) protection of Safeguards Information at fixed sites, in use and in storage, and while in transit; (3) correspondence containing Safeguards Information; (4) access to Safeguards Information; (5) preparation, marking, reproduction, and destruction of documents; (6) external transmission of documents; (7) use of automatic data processing systems; and (8) removal of the Safeguards Information category.

To provide assurance that the Licensee is implementing appropriate measures to achieve a consistent level of protection to prohibit the unauthorized disclosure of new Safeguards Information, the Licensee shall implement the fingerprinting and criminal history check requirements for access to new Safeguards Information in this Order, as well as the requirements in Attachments A and B of this Order. In addition, pursuant to 10 CFR 2.202, I find that in light of the common defense and security matters identified above, which warrant the issuance of this Order, the public health, safety, and interest require that this Order be effective immediately.

III

Accordingly, pursuant to Sections 53, 62, 63, 81, 147, 149, 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 part 30, 10 CFR part 40, and 10 CFR part 70, *it is hereby ordered,* effective immediately, that licensee and all other persons who produce, receive, or acquire the additional security measures identified above (whether draft or final), or who seek or obtain access to new safeguards information, shall comply with the requirements set forth in this Order, including the requirements in Attachments A and B.

A. No person may have access to new Safeguards Information unless that person has a need-to-know the new Safeguards Information, has been fingerprinted and undergone an FBI identification and criminal history records check, which has been favorably decided, and satisfies all other applicable requirements for access to Safeguards Information. Fingerprinting and the FBI identification and criminal history records check are not required, however, for any person who is relieved from that requirement by 10 CFR 73.59 (71 FR 33989 (June 13, 2006)) or who has an active Federal security clearance.

B. No person may provide new Safeguards Information to any other person except in accordance with condition III.A above. Prior to sharing new Safeguards Information with any other person, a copy of this Order shall be provided to that person.

IV

The Director, Office of Nuclear Material Safety and Safeguards, may, in writing, relax or rescind any of the above conditions, on demonstration of good cause by the Licensee. 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, and may request a hearing on this Order, within twenty (20) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the Licensee or other person adversely affected relies, and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555; to the Assistant General Counsel for Materials Litigation and Enforcement, at the same address; and to the Licensee, if the answer or hearing request is by a person other than the Licensee. Because of possible delays in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission, either by means of facsimile transmission, to 301–415–1101, or by e-mail, to *hearingdocket@nrc.gov;* and also to the Office of the General Counsel, either by means of facsimile transmission, to 301–415–3725, or by e-mail, to *OGCMailCenter@nrc.gov.* If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which their interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309.

If a hearing is requested by the Licensee or a person whose interest is

adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee 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 grounds 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 III above shall be final twenty (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 III 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 at Rockville, Maryland this 28th day of August 2006.

For the Nuclear Regulatory Commission.

Jack R. Strosnider,

Director, Office of Nuclear Material Safety and Safeguards.

Attachment A—Modified Handling Requirements for the Protection of Certain Safeguards Information (SGI–M)

General Requirement

Information and material that the U.S. Nuclear Regulatory Commission (NRC) determines are safeguards information must be protected from unauthorized disclosure. In order to distinguish information needing modified protection requirements from the safeguards information for reactors and fuel cycle facilities that require a higher level of protection, the term "Safeguards Information-Modified Handling" (SGI–M) is being used as the distinguishing marking for certain materials licensees. Each person who produces, receives, or acquires SGI–M shall ensure that it is protected against unauthorized disclosure. To meet this requirement, licensees and persons shall establish and maintain an information protection system that includes the measures specified below. Information protection procedures employed by state and local police forces are deemed to meet these requirements.

Persons Subject to These Requirements

Any person, whether or not a licensee of the NRC, who produces, receives, or acquires SGI–M is subject to the requirements (and sanctions) of this document. Firms and their employees that supply services or equipment to materials licensees fall under this requirement if they possess SGI–M. A licensee must inform contractors and suppliers of the existence of these requirements and the need for proper protection. (See more under Conditions for Access)

State or local police units who have access to SGI–M are also subject to these requirements. However, these organizations are deemed to have adequate information protection systems. The conditions for transfer of information to a third party, i.e., need-to-know, would still apply to the police organization as would sanctions for unlawful disclosure. Again, it would be prudent for licensees who have arrangements with local police to advise them of the existence of SGI–M requirements.

Criminal and Civil Sanctions

The Atomic Energy Act of 1954, as amended, explicitly provides that any person, "whether or not a licensee of the Commission, who violates any regulations adopted under this section shall be subject to the civil monetary penalties of section 234 of this Act." Furthermore, willful violation of any regulation or order governing safeguards information is a felony subject to criminal penalties in the form of fines or imprisonment, or both. See sections 147b. and 223 of the Act.

Conditions for Access

Access to SGI–M beyond the initial recipients of the order will be governed by the background check requirements imposed by the order. Access to SGI–M by licensee employees, agents, or contractors must include both an appropriate need-to-know determination by the licensee, as well as a determination concerning the trustworthiness of individuals having access to the information. Employees of an organization affiliated with the licensee's company, e.g., a parent company, may be considered as employees of the licensee for access purposes.

Need-to-Know

Need-to-know is defined as a determination by a person having responsibility for protecting SGI–M that a proposed recipient's access to SGI–M is necessary in the performance of official, contractual, or licensee duties of employment. The recipient must be made aware that the information is SGI–M and those having access to it are subject to these requirements as well as criminal and civil sanctions for mishandling the information.

Occupational Groups

Dissemination of SGI–M is limited to individuals who have an established need-to-know and who are members of certain occupational groups. These occupational groups are:

1. An employee, agent, or contractor of an applicant, a licensee, the Commission, or the United States Government;
2. A member of a duly authorized committee of the Congress;
3. The Governor of a State or his designated representative;
4. A representative of the International Atomic Energy Agency (IAEA) engaged in activities associated with the U.S./IAEA Safeguards Agreement who has been certified by the NRC;
5. A member of a state or local law enforcement authority that is responsible for responding to requests for assistance during safeguards emergencies;
6. A person to whom disclosure is ordered pursuant to Section 2.744(e) of Part 2 of part 10 of the Code of Federal Regulations; or
7. State Radiation Control Program Directors (and State Homeland Security Directors) or their designees.

In a generic sense, the individuals described above in (A) through (G) are considered to be trustworthy by virtue of their employment status. For non-governmental individuals in group (A) above, a determination of reliability and trustworthiness is required. Discretion must be exercised in granting access to the individuals in group (A). If there is any indication that the recipient would be unwilling or unable to provide proper protection for the SGI–M, they are not authorized to receive SGI–M.

Information Considered for Safeguards Information Designation

Information deemed SGI–M is information the disclosure of which could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of materials or facilities subject to NRC jurisdiction.

SGI–M identifies safeguards information which is subject to these requirements. These requirements are necessary in order to protect quantities of nuclear material significant to the

health and safety of the public or common defense and security.

The overall measure for consideration of SGI–M is the usefulness of the information (security or otherwise) to an adversary in planning or attempting a malevolent act. The specificity of the information increases the likelihood that it will be useful to an adversary.

Protection While in Use

While in use, SGI–M shall be under the control of an authorized individual. This requirement is satisfied if the SGI–M is attended by an authorized individual even though the information is in fact not constantly being used. SGI–M, therefore, within alarm stations, continuously manned guard posts or ready rooms need not be locked in file drawers or storage containers.

Under certain conditions the general control exercised over security zones or areas would be considered to meet this requirement. The primary consideration is limiting access to those who have a need-to-know. Some examples would be:

Alarm stations, guard posts and guard ready rooms; Engineering or drafting areas if visitors are escorted and information is not clearly visible; Plant maintenance areas if access is restricted and information is not clearly visible; Administrative offices (e.g., central records or purchasing) if visitors are escorted and information is not clearly visible.

Protection While in Storage

While unattended, SGI–M shall be stored in a locked file drawer or container. Knowledge of lock combinations or access to keys protecting SGI–M shall be limited to a minimum number of personnel for operating purposes who have a "need-to-know" and are otherwise authorized access to SGI–M in accordance with these requirements. Access to lock combinations or keys shall be strictly controlled so as to prevent disclosure to an unauthorized individual.

Transportation of Documents and Other Matter

Documents containing SGI–M when transmitted outside an authorized place of use or storage shall be enclosed in two sealed envelopes or wrappers. The inner envelope or wrapper shall contain the name and address of the intended recipient, and be marked both sides, top and bottom with the words "Safeguards Information—Modified Handling." The outer envelope or wrapper must be addressed to the intended recipient, must contain the address of the sender, and must not bear any markings or indication that the document contains SGI–M.

SGI–M may be transported by any commercial delivery company that provides nationwide overnight service with computer tracking features, U.S. first class, registered, express, or certified mail, or by any individual authorized access pursuant to these requirements.

Within a facility, SGI–M may be transmitted using a single opague envelope. It may also be transmitted within a facility without single or double wrapping, provided adequate measures are taken to protect the material against unauthorized disclosure. Individuals transporting SGI–M should retain the documents in their personal possession at all times or ensure that the information is appropriately wrapped and also secured to preclude compromise by an unauthorized individual.

Preparation and Marking of Documents

While the NRC is the sole authority for determining what specific information may be designated as "SGI–M," originators of documents are responsible for determining whether those documents contain such information. Each document or other matter that contains SGI–M shall be marked "Safeguards Information-Modified Handling" in a conspicuous manner on the top and bottom of the first page to indicate the presence of protected information. The first page of the document must also contain (i) the name, title, and organization of the individual authorized to make a SGI–M determination, and who has determined that the document contains SGI–M, (ii) the date the document was originated or the determination made, (iii) an indication that the document contains SGI–M, and (iv) an indication that unauthorized disclosure would be subject to civil and criminal sanctions. Each additional page shall be marked in a conspicuous fashion at the top and bottom with letters denoting "Safeguards Information-Modified Handling."

In addition to the "Safeguards Information-Modified Handling" markings at the top and bottom of page, transmittal letters or memoranda which do not in themselves contain SGI–M shall be marked to indicate that attachments or enclosures contain SGI–M but that the transmittal does not (*e.g.*, "When separated from SGI–M enclosure(s), this document is decontrolled").

In addition to the information required on the face of the document, each item of correspondence that contains SGI–M shall, by marking or other means, clearly indicate which portions (e.g., paragraphs, pages, or appendices) contain SGI–M and which do not. Portion marking is not required for physical security and safeguards contingency plans.

All documents or other matter containing SGI–M in use or storage shall be marked in accordance with these requirements. A specific exception is provided for documents in the possession of contractors and agents of licensees that were produced more than one year prior to the effective date of the order. Such documents need not be marked unless they are removed from file drawers or containers. The same exception applies to old documents stored away from the facility in central files or corporation headquarters.

Since information protection procedures employed by state and local police forces are deemed to meet NRC requirements, documents in the possession of these agencies need not be marked as set forth in this document.

Removal From SGI–M Category

Documents containing SGI–M shall be removed from the SGI–M category (decontrolled) only after the NRC determines that the information no longer meets the criteria of SGI–M. Licensees have the authority to make determinations that specific documents *which they created* no longer contain SGI–M information and may be decontrolled. Consideration must be exercised to ensure that any document decontrolled shall not disclose SGI–M in some other form or be combined with other unprotected information to disclose SGI–M.

The authority to determine that a document may be decontrolled may be exercised only by, or with the permission of, the individual (or office) who made the original determination. The document shall indicate the name and organization of the individual removing the document from the SGI–M category and the date of the removal. Other persons who have the document in their possession should be notified of the decontrolling of the document.

Reproduction of Matter Containing SGI–M

SGI–M may be reproduced to the minimum extent necessary consistent with need without permission of the originator. Newer digital copiers which scan and retain images of documents represent a potential security concern. If the copier is retaining any information in memory, the copier cannot be connected to a network. It should also be placed in a location that is cleared

and controlled for the authorized processing of SGI–M information. Different copiers have different capabilities, including some which come with features that allow the memory to be erased. Each copier would have to be examined from a physical security perspective.

Use of Automatic Data Processing (ADP) Systems

SGI–M may be processed or produced on an ADP system provided that the system is assigned to the licensee's or contractor's facility and requires the use of an entry code/password for access to stored information. Licensees must process this information in a computing environment that has adequate computer security controls in place to prevent unauthorized access to the information. An ADP system is defined here as a data processing system having the capability of long term storage of information. Word processors such as typewriters are not subject to the requirements as long as they do not transmit information off-site. (**Note:** If SGI–M is produced on a typewriter, the ribbon must be removed and stored in the same manner as other SGI–M information or media.) The basic objective of these restrictions is to prevent access and retrieval of stored SGI–M by unauthorized individuals, particularly from remote terminals. Specific files containing SGI–M will be password protected to preclude access by an unauthorized individual. SGI–M files may be transmitted over a network if the file is encrypted. In such cases, the licensee will select a commercially available encryption system that NIST has validated as conforming to Federal Information Processing Standards (FIPS). SGI–M files shall be properly labeled as "Safeguards Information—Modified Handling" and saved to removable media and stored in a locked file drawer or cabinet. The National Institute of Standards and Technology (NIST) maintains a listing of all validated encryption systems at *http://csrc.nist.gov/cryptval/140-1/1401val.htm.*

Telecommunications

SGI–M may not be transmitted by unprotected telecommunications circuits except under emergency or extraordinary conditions. For the purpose of this requirement, emergency or extraordinary conditions are defined as any circumstances that require immediate communications in order to report, summon assistance for, or respond to a security event (or an event that has potential security significance).

This restriction applies to telephone, telegraph, teletype, facsimile circuits, and to radio. Routine telephone or radio transmission between site security personnel, or between the site and local police, should be limited to message formats or codes that do not disclose facility security features or response procedures. Similarly, call-ins during transport should not disclose information useful to a potential adversary. Infrequent or non-repetitive telephone conversations regarding a physical security plan or program are permitted provided that the discussion is general in nature.

Individuals should use care when discussing SGI–M at meetings or in the presence of others to ensure that the conversation is not overheard by persons not authorized access. Transcripts, tapes or minutes of meetings or hearings that contain SGI–M shall be marked and protected in accordance with these requirements.

Destruction

Documents containing SGI–M must be destroyed when no longer needed. They may be destroyed by tearing into small pieces, burning, shredding or any other method that precludes reconstruction by means available to the public at large. Piece sizes one-half inch or smaller composed of several pages or documents and thoroughly mixed are considered completely destroyed.

Attachment B—Trustworthiness and Reliability Requirements for Individuals Handling Safeguards Information

Licensees shall document the basis for concluding that there is reasonable assurance that individuals granted access to safeguards information or who are placed in positions where they could facilitate access to the regulated material are trustworthy and reliable, and do not constitute an unreasonable risk for malevolent use of the regulated material.

The trustworthiness, reliability, and verification of an individual's true identity shall be determined based on a background investigation. The background investigation shall address at least the past three (3) years, and, as a minimum, include a local criminal history check (unless local or State laws prohibit local criminal history checks of current employees), verification of employment history, education, employment eligibility, and personal references. If an individual's employment has been less than the required three (3) year period, educational references may be used in lieu of employment history.

The licensee's background investigation requirements may be satisfied for an individual that has an active Federal security clearance.

[FR Doc. 06–7742 Filed 9–18–06; 8:45 am]
BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Salary Council

AGENCY: Office of Personnel Management.

ACTION: Notice of meeting.

SUMMARY: The Federal Salary Council will meet at the time and location shown below. The Council is an advisory body composed of representatives of Federal employee organizations and experts in the fields of labor relations and pay policy. The Council makes recommendations to the President's Pay Agent (the Secretary of Labor and the Directors of the Office of Management and Budget and the Office of Personnel Management) about the locality pay program for General Schedule employees under section 5304 of title 5, United States Code. The Council's recommendations cover the establishment or modification of locality pay areas, the coverage of salary surveys, the process of comparing Federal and non-Federal rates of pay, and the level of comparability payments that should be paid.

The Council will review the results of pay comparisons and formulate its recommendations to the President's Pay Agent on pay comparison methods, locality pay rates, and locality pay area boundaries for 2008. The Council anticipates it will complete its work for this year at this meeting and has not scheduled any additional meetings for 2006. The public may submit written materials about the locality pay program to the Council at the address shown below. The meeting is open to the public.

DATES: October 12, 2006, at 10 a.m.

Location: Office of Personnel Management, 1900 E Street NW., Room 1350, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jerome D. Mikowicz, Acting Deputy Associate Director for Pay and Performance Policy, Office of Personnel Management, 1900 E Street NW., Room 7H31, Washington, DC 20415–8200. Phone (202) 606–2838; FAX (202) 606–4264; or e-mail at *pay-performance-policy@opm.gov.*

For the President's Pay Agent.

Linda M. Springer,

Director.

[FR Doc. E6–15536 Filed 9–18–06; 8:45 am]

BILLING CODE 6325–39–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 27480; 812–13230]

Marshall Funds, Inc. and M&I Investment Management Corp.; Notice of Application

September 13, 2006.

AGENCY: Securities and Exchange Commission.

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 ("Act") for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as certain disclosure requirements.

Summary of Application: Applicants request an order that would permit them to enter into and materially amend subadvisory agreements without shareholder approval and would grant relief from certain disclosure requirements.

Applicants: Marshall Funds, Inc. (the "Company") and M&I Investment Management Corp. (the "Adviser").

Filing Dates: The application was filed on August 30, 2005, and amended on September 8, 2006.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 10, 2006, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. Applicants, 1000 North Water Street, Milwaukee, WI 53202.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Senior Counsel, at (202) 551–6812, or Nadya B. Roytblat, Assistant Director, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 100 F Street, NE., Washington, DC 20549–0102 (tel. 202–551–5850).

Applicants' Representations

1. The Company, a Wisconsin corporation, is registered under the Act as an open-end management investment company. The Company currently is comprised of thirteen series (each a "Fund" and collectively, the "Funds"), each with a separate investment objective, policy and restrictions.[1] The Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act") and serves as investment adviser to the Funds pursuant to an investment advisory agreement ("Advisory Agreement") with the Company. The Advisory Agreement has been approved by the Company's board of directors (the "Board"), including a majority of the directors who are not "interested persons," as defined in section 2(a)(19) of the Act, of the Company or the Adviser ("Independent Directors"), as well as by the shareholders of each Fund.

2. Under the terms of the Advisory Agreement, the Adviser provides the Funds with overall investment management services, supervises the investment program for each Fund, and has the authority, subject to the approval of the Board and Fund shareholders, to enter into investment subadvisory agreements ("Subadvisory Agreements") with one or more subadvisers ("Subadvisers"). The Adviser has entered into Subadvisory Agreements with two Subadvisers to provide investment advisory services to one Fund and in the future may enter into Subadvisory Agreements on behalf of other Funds. Each Subadviser is registered under the Advisers Act. The Adviser monitors and evaluates the Subadvisers and recommends to the Board their hiring, retention or termination. Subadvisers recommended to the Board by the Adviser are selected and approved by the Board, including a majority of the Independent Directors. Each Subadviser has discretionary authority to invest the assets or a portion of the assets of a particular Fund. The Adviser compensates each Subadviser out of the fees paid to the Adviser under the Advisory Agreement.

3. Applicants request an order to permit the Adviser, subject to Board approval, to enter into and materially amend Subadvisory Agreements without obtaining shareholder approval. The requested relief will not extend to any Subadviser that is an affiliated person, as defined in section 2(a)(3) of the Act, of the Company or of the Adviser, other than by reason of serving as a Subadviser to one or more of the Funds ("Affiliated Sub-Adviser").

4. Applicants also request an exemption from the various disclosure provisions described below that may require a Fund to disclose fees paid by the Adviser to each Subadviser. An exemption is requested to permit the Company to disclose for each Fund (as both a dollar amount and as a percentage of each Fund's net assets): (a) the aggregate fees paid to the Adviser and any Affiliated Subadvisers; and (b) the aggregate fees paid to Subadvisers other than Affiliated Subadvisers ("Aggregate Fee Disclosure"). For any Fund that employs an Affiliated Subadviser, the Fund will provide separate disclosure of any fees paid to the Affiliated Subadviser.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except under a written contract that has been approved by the vote of a majority of the company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series company affected by a matter must approve such matter if the Act requires shareholder approval.

2. Form N–1A is the registration statement used by open-end investment companies. Item 14(a)(3) of Form N–1A requires disclosure of the method and amount of the investment adviser's compensation.

3. Rule 20a–1 under the Act requires proxies solicited with respect to an

[1] Applicants also request relief with respect to future series of the Company and any other existing or future registered open-end management investment company or series thereof that: (a) is advised by the Adviser or a person controlling, controlled by, or under common control with the Adviser or its successors; (b) uses the management structure described in the application; and (c) complies with the terms and conditions of the application (included in the term "Funds"). For purposes of the requested order, "successor" is limited to an entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization. The only existing registered open-end management investment company that currently intends to rely on the requested order is named as an applicant. If the name of any Fund contains the name of a Subadviser (as defined below), the name of the Adviser or the name of the entity controlling, controlled by, or under common control with the Adviser that serves as the primary adviser to the Fund will precede the name of the Subadviser.

investment company to comply with Schedule 14A under the Securities Exchange Act of 1934 ("1934 Act"). Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the "rate of compensation of the investment adviser," the "aggregate amount of the investment adviser's fees," a description of the "terms of the contract to be acted upon," and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

4. Form N–SAR is the semi-annual report filed with the Commission by registered investment companies. Item 48 of Form N–SAR requires investment companies to disclose the rate schedule for fees paid to their investment advisers, including the Subadvisers.

5. Regulation S–X sets forth the requirements for financial statements required to be included as part of investment company registration statements and shareholder reports filed with the Commission. Sections 6–07(2)(a), (b), and (c) of Regulation S–X require that investment companies include in their financial statements information about investment advisory fees.

6. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that their requested relief meets this standard for the reasons discussed below.

7. Applicants assert that the shareholders are relying on the Adviser's experience to select one or more Subadvisers best suited to achieve a Fund's investment objectives. Applicants assert that, from the perspective of the investor, the role of the Subadvisers is comparable to that of the individual portfolio managers employed by traditional investment company advisory firms. Applicants state that requiring shareholder approval of each Subadvisory Agreement would impose costs and unnecessary delays on the Funds, and may preclude the Adviser from acting promptly in a manner considered advisable by the Board. Applicants note that the Advisory Agreement and any Subadvisory Agreement with an Affiliated Subadviser will remain subject to section 15(a) of the Act and rule 18f-2 under the Act.

8. Applicants assert that some Subadvisers use a "posted" rate schedule to set their fees. Applicants state that while Subadvisers are willing to negotiate fees that are lower than those posted on the schedule, they are reluctant to do so where the fees are disclosed to other prospective and existing customers. Applicants submit that the requested relief will encourage potential Subadvisers to negotiate lower subadvisory fees with the Adviser.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Fund may rely on the order requested in the application, the operation of the Fund in the manner described in the application will be approved by a majority of the Fund's outstanding voting securities, as defined in the Act, or, in the case of a Fund whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the sole initial shareholder before offering the Fund's shares to the public.

2. The prospectus for each Fund will disclose the existence, substance, and effect of any order granted pursuant to the application. Each Fund will hold itself out to the public as employing the management structure described in the application. The prospectus will prominently disclose that the Adviser has ultimate responsibility (subject to oversight by the Board) to oversee the Subadvisers and recommend their hiring, termination, and replacement.

3. Within 90 days of the hiring of any new Subadviser, the affected Fund shareholders will be furnished all information about the new Subadviser that would be included in a proxy statement, except as modified to permit Aggregate Fee Disclosure. This information will include Aggregate Fee Disclosure and any change in such disclosure caused by the addition of the new Subadviser. To meet this obligation, the Fund will provide shareholders within 90 days of the hiring of a new Subadviser with an information statement meeting the requirements of Regulation 14C, Schedule 14C, and Item 22 of Schedule 14A under the 1934 Act, except as modified by the order to permit Aggregate Fee Disclosure.

4. The Adviser will not enter into a Subadvisory Agreement with any Affiliated Subadviser without that agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Fund.

5. At all times, at least a majority of the Board will be Independent Directors, and the nomination of new or additional Independent Directors will be placed within the discretion of the then-existing Independent Directors.

6. When a Subadviser change is proposed for a Fund with an Affiliated Subadviser, the Board, including a majority of the Independent Directors, will make a separate finding, reflected in the applicable Board minutes, that such change is in the best interests of the Fund and its shareholders and does not involve a conflict of interest from which the Adviser or the Affiliated Subadviser derives an inappropriate advantage.

7. Independent counsel, as defined in rule 0–1(a)(6) under the Act, will be engaged to represent the Independent Directors. The selection of such counsel will be within the discretion of the then existing Independent Directors.

8. The Adviser will provide the Board, no less frequently than quarterly, with information about the profitability of the Adviser on a per-Fund basis. The information will reflect the impact on profitability of the hiring or termination of any Subadviser during the applicable quarter.

9. Whenever a Subadviser is hired or terminated, the Adviser will provide the Board with information showing the expected impact on the profitability of the Adviser.

10. The Adviser will provide general management services to each Fund, including overall supervisory responsibility for the general management and investment of the Fund's assets, and, subject to review and approval of the Board, will: (a) Set each Fund's overall investment strategies; (b) evaluate, select and recommend Subadvisers to manage all or a part of a Fund's assets; (c) when appropriate, allocate and reallocate a Fund's assets among multiple Subadvisers; (d) monitor and evaluate the performance of Subadvisers; and (e) implement procedures reasonably designed to ensure that the Subadvisers comply with each Fund's investment objective, policies and restrictions.

11. No director or officer of the Company, or director or officer of the Adviser, will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person), any interest in a Subadviser, except for: (a) Ownership of interests in the Adviser or any entity that controls, is controlled by, or is under common control with the Adviser; or (b) ownership of less than 1% of the

outstanding securities of any class of equity or debt of a publicly traded company that is either a Subadviser or an entity that controls, is controlled by, or is under common control with a Subadviser.

12. Each Fund will disclose in its registration statement the Aggregate Fee Disclosure.

13. The requested order will expire on the effective date of rule 15a–5 under the Act, if adopted.

For the Commission, by the Division of Investment Management, under delegated authority.

Nancy M. Morris,

Secretary.

[FR Doc. E6–15513 Filed 9–18–06; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54426; File No. S7–24–89]

Joint Industry Plan; Notice of Filing and Effectiveness of Amendment No. 17 to the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis, Submitted by the American Stock Exchange LLC, the Boston Stock Exchange, Inc., the Chicago Stock Exchange, Inc., the Chicago Board Options Exchange, Incorporated, the International Securities Exchange, Inc., the National Association of Securities Dealers, Inc., the National Stock Exchange, Inc., the NASDAQ Stock Market LLC, NYSE Arca, Inc., and the Philadelphia Stock Exchange, Inc.

September 12, 2006.

I. Introduction and Description

Pursuant to Rule 608 of the Securities Exchange Act of 1934 (the "Act")[1] notice is hereby given that on August 21, 2006, the operating committee ("Operating Committee" or "Committee")[2] of the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation, and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis ("Nasdaq/UTP Plan" or "Plan") filed with the Securities and Exchange Commission ("Commission") amendments to the Plan. These amendments represent Amendment 17 made to the Plan and reflect: Changing the Pacific Exchange's name to NYSE Arca, Inc.; expanding the Processor hours of operation from 6:30 p.m. to 8 p.m.; modifying the definition of Eligible Security to bring it into conformance with recent changes to Nasdaq Stock Market listing rules; and making other minor administrative changes. Amendment 17 was unanimously approved by the Committee on July 20, 2006.[3] The Commission is publishing this notice of filing and effectiveness to solicit comments from interested persons on Amendment No. 17.

II. Background

The Plan governs the collection, consolidation, and dissemination of quotation and transaction information for the Nasdaq Global Market and Nasdaq Capital Market securities listed on Nasdaq or traded on an exchange pursuant to unlisted trading privileges ("UTP").[4] The Plan provides for the collection from Plan Participants and the consolidation and dissemination to vendors, subscribers, and others of quotation and transaction information in Eligible Securities.[5]

The Commission originally approved the Plan on a pilot basis on June 26, 1990.[6] The parties did not begin trading until July 12, 1993; accordingly, the pilot period commenced on July 12, 1993. The pilot approval of the Plan was most recently extended on December 5, 2005.[7]

III. Description and Purpose of the Amendment[8]

The following is a summary of the changes to the Plan prepared by the Participants:

(i) Section I.A. of the Plan provides for the list of Plan Participants, and Section VIII.C. of the Plan provides symbols for market identification for quotation information and transaction reports. Amendment 17 eliminates the Pacific Exchange as a Plan Participant and replaces it with NYSE Arca, Inc. Amendment 17 also makes minor technical changes to the names of the National Stock Exchange and the Nasdaq Stock Market.

(ii) Section III.B. defines "Eligible Security," and Section III.L. defines "Nasdaq Security" and "Nasdaq-listed Security." Amendment 17 amends the definitions to conform with Nasdaq Stock Market listing rules. This includes changing Nasdaq National Market to Nasdaq Global Market securities and Nasdaq Small Cap to Nasdaq Capital Market securities.

(iii) Section III.I defines the "UTP Quote Data Feed," and Section VI.C. provides for the dissemination of information by the Processor. Amendment 17 makes changes to reflect that the NASD Participant representing NASD's best bid/offer will be added to the UTP Quote Data Feed.

(iv) Section XI provides for the hours of operation. Amendment 17 changes the Processor hours from 6:30 p.m. to 8 p.m.

(v) Amendment 17 modifies Exhibit 1 to the Plan to reflect that the costs of identifying the NASD Participant(s) that constitute NASD's Best Bid and Offer quotation will be part of the costs directly attributable to creating the UTP Quote Data Feed.

(vi) Amendment 17 also makes minor administrative changes to the Plan such as incorporating references to Regulation NMS rules and correcting numbering.

IV. Date of Effectiveness of the Amendment

The changes set forth in Amendment No. 17 have been designated by the Participants as concerned solely with the administration of the plan or involving solely technical or ministerial matters, and thus are being put into effect upon filing with the Commission pursuant to Rules 608(b)(3)(ii) and 608(b)(3)(iii).[9] At any time within 60 days of the filing of any such amendment, the Commission may

[1] 17 CFR 242.608.

[2] The Plan Participants (collectively, "Participants") are: The American Stock Exchange LLC ("Amex"), the Boston Stock Exchange, Inc. ("BSE"), the Chicago Stock Exchange, Inc. ("CHX"), the Chicago Board Options Exchange, Incorporated ("CBOE"), the International Securities Exchange, Inc. ("ISE"), the National Association of Securities Dealers, Inc. ("NASD"), the National Stock Exchange, Inc. ("NSX"), The NASDAQ Stock Market LLC ("Nasdaq"), NYSE Arca, Inc. ("NYSEArca"), and the Philadelphia Stock Exchange, Inc. ("Phlx").

[3] *See* letter from Bridget M. Farrell, Chairman, OTC/UTP Operating Committee, to Nancy M. Morris, Secretary, Commission, dated August 18, 2006.

[4] Section 12 of the Act generally requires an exchange to trade only those securities that the exchange lists, except that Section 12(f) of the Act permits an exchange to extend UTP to any security that is listed and registered on a national securities exchange. Nasdaq began operating as a national securities exchange for Nasdaq-listed securities on August 1, 2006, *see* Securities Exchange Act Release No. 54241 (July 31, 2006), 71 FR 45359 (August 8, 2006).

[5] The Plan defines "Eligible Securities" as any Nasdaq Global Market or Nasdaq Capital Market security, as defined in NASDAQ Rule 4200.

[6] *See* Securities Exchange Act Release No. 28146, 55 FR 27917 (July 6, 1990).

[7] *See* Securities Exchange Act Release No. 52886, 70 FR 74059 (December 14, 2005).

[8] The complete text of the Plan, as amended by Amendment No. 17, is attached as Exhibit A.

[9] 17 CFR 242.608(b)(3)(ii) and (b)(3)(iii).

summarily abrogate the amendment and require that the amendment be refiled in accordance with paragraph (a)(1) of Rule 608 under the Act [10] and reviewed in accordance with paragraph (b)(2) of Rule 608 under the Act,[11] if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or the maintenance of fair and orderly markets, to remove impediments to, and perfect mechanisms of, a national market system or otherwise in furtherance of the purposes of the Act.[12]

V. Solicitation of Comments

The Commission seeks general comments on Amendment No. 17. Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal 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 S7–24–89 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number S7–24–89. 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 written statements with respect to the proposed Plan amendment that are filed with the Commission, and all written communications relating to the proposed Plan amendment between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the Office of the Secretary of the Committee, currently located at NYSE Arca, Inc., 100 South Wacker Drive, Suite 1800, Chicago, IL 60606. 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 S7–24–89 and should be submitted on or before October 10, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Nancy M. Morris,

Secretary.

Exhibit A—Amendment No. 17; Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis

The undersigned registered national securities association and national securities exchanges (collectively referred to as the "Participants"), have jointly developed and hereby enter into this Nasdaq Unlisted Trading Privileges Plan ("Nasdaq UTP Plan" or "Plan").

I. Participants

The Participants include the following:

A. Participants

1. American Stock Exchange LLC, 86 Trinity Place, New York, New York 10006.

2. Boston Stock Exchange, 100 Franklin Street, Boston, Massachusetts 02110.

3. Chicago Stock Exchange, 440 South LaSalle Street, Chicago, Illinois 60605.

4. Chicago Board Options Exchange, Inc., 400 South LaSalle Street, 26th Floor, Chicago, Illinois 60605.

5. International Securities Exchange, Inc., 60 Broad Street, New York, New York 10004.

6. National Association of Securities, Dealers, Inc., 1735 K Street, NW., Washington, DC 20006.

7. National Stock Exchange, Inc., 440 South LaSalle Street, 26th Floor, Chicago, Illinois 60605.

8. NYSE Arca, Inc., 100 South Wacker Drive, Suite 1800, Chicago, IL 60606.

9. Philadelphia Stock Exchange, 1900 Market Street, Philadelphia, Pennsylvania 19103.

10. The Nasdaq Stock Market LLC, 1 Liberty Plaza, 165 Broadway, New York, NY 10006.

B. Additional Participants

Any other national securities association or national securities exchange, in whose market Eligible Securities become traded, may become a Participant, provided that said organization executes a copy of this Plan and pays its share of development costs as specified in Section XIII.

II. Purpose of Plan

The purpose of this Plan is to provide for the collection, consolidation and dissemination of Quotation Information and Transaction Reports in Eligible Securities from the Participants in a manner consistent with the Exchange Act.

It is expressly understood that each Participant shall be responsible for the collection of Quotation Information and Transaction Reports within its market and that nothing in this Plan shall be deemed to govern or apply to the manner in which each Participant does so.

III. Definitions

A. "Current" means, with respect to Transaction Reports or Quotation Information, such Transaction Reports or Quotation Information during the fifteen (15) minute period immediately following the initial transmission thereof by the Processor.

B. "Eligible Security" means any Nasdaq Global Market or Nasdaq Capital Market security, as defined in NASDAQ Rule 4200. Eligible Securities under this Nasdaq UTP Plan shall not include any security that is defined as an "Eligible Security" within Section VII of the Consolidated Tape Association Plan.

A security shall cease to be an Eligible Security for purposes of this Plan if: (i) The security does not substantially meet the requirements from time to time in effect for continued listing on Nasdaq, and thus is suspended from trading; or (ii) the security has been suspended from trading because the issuer thereof is in liquidation, bankruptcy or other similar type proceedings. The determination as to whether a security substantially meets the criteria of the definition of Eligible Security shall be made by the exchange on which such security is listed provided, however, that if such security is listed on more than one exchange, then such determination shall be made by the exchange on which, the greatest number of the transactions in such security were effected during the previous twelve-month period.

C. "Commission" and "SEC" shall mean the U.S. Securities and Exchange Commission.

[10] 17 CFR 242.608(a)(1).

[11] 17 CFR 242.608(b)(2).

[12] 17 CFR 242.608(b)(3)(iii).

[13] 17 CFR 200.30–3(a)(27).

D. "Exchange Act" means the Securities Exchange Act of 1934.

E. "Market" shall mean (i) When used with respect to Quotation Information, the NASD in the case of an NASD Participant, or the Participant on whose floor or through whose facilities the quotation was disseminated; and (ii) when used with respect to Transaction Reports, the Participant through whose facilities the transaction took place or is reported, or the Participant to whose facilities the order was sent for execution.

F. "NASD" means the National Association of Securities Dealers Inc.

G. "NASD Participant" means an NASD member that is registered as a market maker or an electronic communications network or otherwise utilizes the facilities of the NASD pursuant to applicable NASD rules.

H. "Transaction Reporting System" means the System provided for in the Transaction Reporting Plan filed with and approved by the Commission pursuant to SEC Rule11Aa3–1, subsequently re-designated as Rule 601 of Regulation NMS, governing the reporting of transactions in Nasdaq securities.

I. "UTP Quote Data Feed" means the service that provides Subscribers with the National Best Bid and Offer quotations, size and market center identifier, as well as the Best Bid and Offer quotations, size and market center identifier from each individual Participant in Eligible Securities and, in the case of NASD, the NASD Participant(s) that constitute NASD's Best Bid and Offer quotations.

J. "Nasdaq System" means the automated quotation system operated by Nasdaq.

K. "UTP Trade Data Feed" means the service that provides Vendors and Subscribers with Transaction Reports.

L. "Nasdaq Security" or "Nasdaq-listed Security" means any security listed on the Nasdaq Global Market or Nasdaq Capital Market.

M. "News Service" means a person that receives Transaction Reports or Quotation Information provided by the Systems or provided by a Vendor, on a Current basis, in connection with such person's business of furnishing such information to newspapers, radio and television stations and other news media, for publication at least fifteen (15) minutes following the time when the information first has been published by the Processor.

N. "OTC Montage Data Feed" means the data stream of information that provides Vendors and Subscribers with quotations and sizes from each NASD Participant.

O. "Participant" means a registered national securities exchange or national securities association that is a signatory to this Plan.

P. "Plan" means this Nasdaq UTP Plan, as from time to time amended according to its provisions, governing the collection, consolidation and dissemination of Quotation Information and Transaction Reports in Eligible Securities.

Q. "Processor" means the entity selected by the Participants to perform the processing functions set forth in the Plan.

R. "Quotation Information" means all bids, offers, displayed quotation sizes, the market center identifiers and, in the case of NASD, the NASD Participant that entered the quotation, withdrawals and other information pertaining to quotations in Eligible Securities required to be collected and made available to the Processor pursuant to this Plan.

S. "Regulatory Halt" means a trade suspension or halt called for the purpose of dissemination of material news, as described at Section X hereof or that is called for where there are regulatory problems relating to an Eligible Security that should be clarified before trading therein is permitted to continue, including a trading halt for extraordinary market activity due to system misuse or malfunction under Section X.E.1. of the Plan ("Extraordinary Market Regulatory Halt").

T. "Subscriber" means a person that receives Current Quotation Information or Transaction Reports provided by the Processor or provided by a Vendor, for its own use or for distribution on a non-Current basis, other than in connection with its activities as a Vendor.

U. "Transaction Reports" means reports required to be collected and made available pursuant to this Plan containing the stock symbol, price, and size of the transaction executed, the Market in which the transaction was executed, and related information, including a buy/sell/cross indicator and trade modifiers, reflecting completed transactions in Eligible Securities.

V. "Upon Effectiveness of the Plan" means July 12, 1993, the date on which the Participants commenced publication of Quotation Information and Transaction Reports on Eligible Securities as contemplated by this Plan.

W. "Vendor" means a person that receives Current Quotation Information or Transaction Reports provided by the Processor or provided by a Vendor, in connection with such person's business of distributing, publishing, or otherwise furnishing such information on a Current basis to Subscribers, News Services or other Vendors.

IV. Administration of Plan

A. Operating Committee: Composition

The Plan shall be administered by the Participants through an operating committee ("Operating Committee"); which shall be composed of one representative designated by each Participant. Each Participant may designate an alternate representative or representatives who shall be authorized to act on behalf of the Participant in the absence of the designated representative. Within the areas of its responsibilities and authority, decisions made or actions taken by the Operating Committee, directly or by duly delegated individuals, committees as may be established from time to time, or others, shall be binding upon each Participant, without prejudice to the rights of any Participant to seek redress from the SEC pursuant to Rule 608 of Regulation NMS under the Exchange Act or in any other appropriate forum.

An Electronic Communications Network, Alternative Trading System, Broker-Dealer or other securities organization ("Organization") which is not a Participant, but has an actively pending Form 1 Application on file with the Commission to become a national securities exchange, will be permitted to appoint one representative and one alternate representative to attend regularly scheduled Operating Committee meetings in the capacity of an observer/advisor. If the Organization's Form 1 petition is withdrawn, returned, or is otherwise not actively pending with the Commission for any reason, then the Organization will no longer be eligible to be represented in the Operating Committee meetings. The Operating Committee shall have the discretion, in limited instances, to deviate from this policy if, as indicated by majority vote, the Operating Committee agrees that circumstances so warrant.

Nothing in this section or elsewhere within the Plan shall authorize any person or organization other than Participants and their representatives to participate on the Operating Committee in any manner other than as an advisor or observer, or in any Executive Session of the Operating Committee.

B. Operating Committee: Authority

The Operating Committee shall be responsible for:

1. Overseeing the consolidation of Quotation Information and Transaction Reports in Eligible Securities from the Participants for dissemination to

Vendors, Subscribers, News Services and others in accordance with the provisions of the Plan;

2. Periodically evaluating the Processor;

3. Setting the level of fees to be paid by Vendors, Subscribers, News Services or others for services relating to Quotation Information or Transaction Reports in Eligible Securities, and taking action in respect thereto in accordance with the provisions of the Plan;

4. Determining matters involving the interpretation of the provisions of the Plan;

5. Determining matters relating to the Plan's provisions for cost allocation and revenue-sharing; and

6. Carrying out such other specific responsibilities as provided under the Plan.

C. Operating Committee: Voting

Each Participant shall have one vote on all matters considered by the Operating Committee.

1. The affirmative and unanimous vote of all Participants entitled to vote shall be necessary to constitute the action of the Operating Committee with respect to:

a. Amendments to the Plan;

b. Amendments to contracts between the Processor and Vendors, Subscribers, News Services and others receiving Quotation Information and Transaction Reports in Eligible Securities;

c. Replacement of the Processor, except for termination for cause, which shall be governed by Section V(B) hereof;

d. Reductions in existing fees relating to Quotation Information and Transaction Reports in Eligible Securities; and

e. Except as provided under Section IV(C)(3) hereof, requests for system changes; and

f. All other matters not specifically addressed by the Plan.

2. With respect to the establishment of new fees or increases in existing fees relating to Quotation Information and Transaction Reports in Eligible Securities, the affirmative vote of two-thirds of the Participants entitled to vote shall be necessary to constitute the action of the Operating Committee.

3. The affirmative vote of a majority of the Participants entitled to vote shall be necessary to constitute the action of the Operating Committee with respect to:

a. Requests for system changes reasonably related to the function of the Processor as defined under the Plan. All other requests for system changes shall be governed by Section IV(C)(1)(e) hereof.

b. Interpretive matters and decisions of the Operating Committee arising under, or specifically required to be taken by, the provisions of the Plan as written;

c. Interpretive matters arising under Rules 601 and 602 of Regulation NMS; and

d. Denials of access (other than for breach of contract, which shall be handled by the Processor),

4. It is expressly agreed and understood that neither this Plan nor the Operating Committee shall have authority in any respect over any Participant's proprietary systems. Nor shall the Plan or the Operating Committee have any authority over the collection and dissemination of quotation or transaction information in Eligible Securities in any Participant's marketplace, or, in the case of the NASD, from NASD Participants.

D. Operating Committee: Meetings

Regular meetings of the Operating Committee may be attended by each Participant's designated representative and/or its alternate representative(s), and may be attended by one or more other representatives of the parties. Meetings shall be held at such times and locations as shall from time to time be determined by the Operating Committee.

Quorum: Any action requiring a vote only can be taken at a meeting in which a quorum of all Participants is present. For actions requiring a simple majority vote of all Participants, a quorum of greater than 50% of all Participants entitled to vote must be present at the meeting before such a vote may be taken. For actions requiring a ⅔ majority vote of all Participants, a quorum of at least ⅔ of all Participants entitled to vote must be present at the meeting before such a vote may be taken. For actions requiring a unanimous vote of all Participants, a quorum of all Participants entitled to vote must be present at the meeting before such a vote may be taken.

A Participant is considered present at a meeting only if a Participant's designated representative or alternate representative(s) is either in physical attendance at the meeting or is participating by conference telephone, or other acceptable electronic means.

Any action sought to be resolved at a meeting must be sent to each Participant entitled to vote on such matter at least one week prior to the meeting via electronic mail, regular U.S. or private mail, or facsimile transmission, provided however that this requirement may be waived by the vote of the percentage of the Committee required to vote on any particular matter, under Section C above.

Any action may be taken without a meeting if a consent in writing, setting forth the action so taken, is sent to and signed by all Participant representatives entitled to vote with respect to the subject matter thereof. All the approvals evidencing the consent shall be delivered to the Chairman of the Operating Committee to be filed in the Operating Committee records. The action taken shall be effective when the minimum number of Participants entitled to vote have approved the action, unless the consent specifies a different effective date.

The Chairman of the Operating Committee shall be elected annually by and from among the Participants by a majority vote of all Participants entitled to vote. The Chairman shall designate a person to act as Secretary to record the minutes of each meeting. The location of meetings shall be rotated among the locations of the principal offices of the Participants, or such other locations as may from time to time be determined by the Operating Committee. Meetings may be held by conference telephone and action may be taken without a meeting if the representatives of all Participants entitled to vote consent thereto in writing or other means the Operating Committee deems acceptable.

E. Advisory Committee

(a) *Formation.* Notwithstanding any other provision of this Plan, an Advisory Committee to the Plan shall be formed and shall function in accordance with the provisions set forth in this section.

(b) *Composition.* Members of the Advisory Committee shall be selected for two-year terms as follows:

(1) *Operating Committee Selections.* By affirmative vote of a majority of the Participants entitled to vote, the Operating Committee shall select at least one representative from each of the following categories to be members of the Advisory Committee: (i) A broker-dealer with a substantial retail investor customer base, (ii) a broker-dealer with a substantial institutional investor customer base, (iii) an alternative trade system, (iv) a data vendor, and (v) an investor.

(2) *Participant Selections.* Each Participant shall have the right to select one member of the Advisory Committee. A Participant shall not select any person employed by or affiliated with any participant or its affiliates or facilities.

(c) *Function.* Members of the Advisory Committee shall have the right to submit their views to the Operating Committee on Plan matters, prior to a

decision by the Operating Committee on such matters. Such matters shall include, but not be limited to, any new or modified product, fee, contract, or pilot program that is offered or used pursuant to the Plan.

(d) *Meetings and Information.* Members of the Advisory Committee shall have the right to attend all meetings of the Operating Committee and to receive any information concerning Plan matters that is distributed to the Operating Committee; provided, however, that the Operating Committee may meet in executive session if, by affirmative vote of a majority of the Participants entitled to vote, the Operating Committee determines that an item of Plan business requires confidential treatment.

V. Selection and Evaluation of the Processor

A. Generally

The Processor's performance of its functions under the Plan shall be subject to review by the Operating Committee at least every two years, or from time to time upon the request of any two Participants but not more frequently than once each year. Based on this review, the Operating Committee may choose to make a recommendation to the Participants with respect to the continuing operation of the Processor. The Operating Committee shall notify the SEC of any recommendations the Operating Committee shall make pursuant to the Operating Committee's review of the Processor and shall supply the Commission with a copy of any reports that may be prepared in connection therewith.

B. Termination of the Processor for Cause

If the Operating Committee determines that the Processor has failed to perform its functions in a reasonably acceptable manner in accordance with the provisions of the Plan or that its reimbursable expenses have become excessive and are not justified on a cost basis, the Processor may be terminated at such time as may be determined by a majority vote of the Operating Committee.

C. Factors To Be Considered in Termination for Cause

Among the factors to be considered in evaluating whether the Processor has performed its functions in a reasonably acceptable manner in accordance with the provisions of the Plan shall be the reasonableness of its response to requests from Participants for technological changes or enhancements pursuant to Section IV(C)(3) hereof. The reasonableness of the Processor's response to such requests shall be evaluated by the Operating Committee in terms of the cost to the Processor of purchasing the same service from a third party and integrating such service into the Processor's existing systems and operations as well as the extent to which the requested change would adversely impact the then current technical (as opposed to business or competitive) operations of the Processor.

D. Processor's Right To Appeal Termination for Cause

The Processor shall have the right to appeal to the SEC a determination of the Operating Committee terminating the Processor for cause and no action shall become final until the SEC has ruled on the matter and all legal appeals of right therefrom have been exhausted.

E. Process for Selecting New Processor

At any time following effectiveness of the Plan, but no later than upon the termination of the Processor, whether for cause pursuant to Section IV(C)(1)(c) or V(B) of the Plan or upon the Processor's resignation, the Operating Committee shall establish procedures for selecting a new Processor (the "Selection Procedures"). The Operating Committee, as part of the process of establishing Selection Procedures, may solicit and consider the timely comment of any entity affected by the operation of this Plan. The Selection Procedures shall be established by a two-thirds majority vote of the Plan Participants, and shall set forth, at a minimum:

1. The entity that will:

(a) Draft the Operating Committee's request for proposal for bids on a new processor;

(b) Assist the Operating Committee in evaluating bids for the new processor; and

(c) Otherwise provide assistance and guidance to the Operating Committee in the selection process.

2. The minimum technical and operational requirements to be fulfilled by the Processor;

3. The criteria to be considered in selecting the Processor; and

4. The entities (other than Plan Participants) that are eligible to comment on the selection of the Processor.

Nothing in this provision shall be interpreted as limiting Participants' rights under Section IV or Section V of the Plan or other Commission order.

VI. Functions of the Processor

A. Generally

The Processor shall collect from the Participants, and consolidate and disseminate to Vendors, Subscribers and News Services, Quotation Information and Transaction Reports in Eligible Securities in a manner designed to assure the prompt, accurate and reliable collection, processing and dissemination of information with respect to all Eligible Securities in a fair and non-discriminatory manner. The Processor shall commence operations upon the Processor's notification to the Participants that it is ready and able to commence such operations.

B. Collection and Consolidation of Information

For as long as Nasdaq is the Processor, the Processor shall be capable of receiving Quotation Information and Transaction Reports in Eligible Securities from Participants by the Plan-approved, Processor sponsored interface, and shall consolidate and disseminate such information via the UTP Quote Data Feed, the UTP Trade Data Feed, and the OTC Montage Data Feed to Vendors, Subscribers and News Services. For so long as Nasdaq is not registered as a national securities exchange and for so long as Nasdaq is the Processor, the Processor shall also collect, consolidate, and disseminate the quotation information contained in NQDS. For so long as Nasdaq is not registered as a national securities exchange and after Nasdaq is no longer the Processor for other SIP datafeeds, either Nasdaq or a third party will act as the Processor to collect, consolidate, and disseminate the quotation information contained in NQDS.

C. Dissemination of Information

The Processor shall disseminate consolidated Quotation Information and Transaction Reports in Eligible Securities via the UTP Quote Data Feed, the UTP Trade Data Feed, and the OTC Montage Data Feed to authorized Vendors, Subscribers and News Services in a fair and non-discriminatory manner. The Processor shall specifically be permitted to enter into agreements with Vendors, Subscribers and News Services for the dissemination of quotation or transaction information on Eligible Securities to foreign (non-U.S.) marketplaces or in foreign countries.

The Processor shall, in such instance, disseminate consolidated quotation or transaction information on Eligible Securities from all Participants.

Nothing herein shall be construed so as to prohibit or restrict in any way the

right of any Participant to distribute quotation, transaction or other information with respect to Eligible Securities quoted on or traded in its marketplace to a marketplace outside the United States solely for the purpose of supporting an intermarket linkage, or to distribute information within its own marketplace concerning Eligible Securities in accordance with its own format. If a Participant requests, the Processor shall make information about Eligible Securities in the Participant's marketplace available to a foreign marketplace on behalf of the requesting Participant, in which event the cost shall be borne by that Participant.

1. *Best Bid and Offer.* The Processor shall disseminate on the UTP Quote Data Feed the best bid and offer information supplied by each Participant, including the NASD Participant that constitutes NASD's single Best Bid and Offer quotations, and shall also calculate and disseminate on the UTP Quote Data Feed a national best bid and asked quotation with size based upon Quotation Information for Eligible Securities received from Participants. The Processor shall not calculate the best bid and offer for any individual Participant, including the NASD.

The Participant responsible for each side of the best bid and asked quotation making up the national best bid and offer shall be identified by an appropriate symbol. If the quotations of more than one Participant shall be the same best price, the largest displayed size among those shall be deemed to be the best. If the quotations of more than one Participant are the same best price and best displayed size, the earliest among those measured by the time reported shall be deemed to be the best. A reduction of only bid size and/or ask size will not change the time priority of a Participant's quote for the purposes of determining time reported, whereas an increase of the bid size and/or ask size will result in a new time reported. The consolidated size shall be the size of the Participant that is at the best.

If the best bid/best offer results in a locked or crossed quotation, the Processor shall forward that locked or crossed quote on the appropriate output lines (*i.e.*, a crossed quote of bid 12, ask 11.87 shall be disseminated). The Processor shall normally cease the calculation of the best bid/best offer after 6:30 p.m., Eastern Time.

2. *Quotation Data Streams.* The Processor shall disseminate on the UTP Quote Data Feed a data stream of all Quotation Information regarding Eligible Securities received from Participants. Each quotation shall be designated with a symbol identifying the Participant from which the quotation emanates and, in the case of NASD, the NASD Participant(s) that constitutes NASD's Best Bid and Offer quotations. In addition, the Processor shall separately distribute on the OTC Montage Data Feed the Quotation Information regarding Eligible Securities from all NASD Participants from which quotations emanate. The Processor shall separately distribute NQDS for so long as Nasdaq is not registered as a national securities exchange and for so long as Nasdaq is the Processor. For so long as Nasdaq is not registered as a national securities exchange and after Nasdaq is no longer the Processor for other SIP datafeeds, either Nasdaq or a third party will act as the Processor to collect, consolidate, and disseminate the quotation information contained in NQDS.

3. *Transaction Reports.* The Processor shall disseminate on the UTP Trade Data Feed a data stream of all Transaction Reports in Eligible Securities received from Participants. Each transaction report shall be designated with a symbol identifying the Participant in whose Market the transaction took place.

D. Closing Reports

At the conclusion of each trading day, the Processor shall disseminate a "closing price" for each Eligible Security. Such "closing price" shall be the price of the last Transaction Report in such security received prior to dissemination. The Processor shall also tabulate and disseminate at the conclusion of each trading day the aggregate volume reflected by all Transaction Reports in Eligible Securities reported by the Participants.

E. Statistics

The Processor shall maintain quarterly, semi-annual and annual transaction and volume statistical counts. The Processor shall, at cost to the user Participant(s), make such statistics available in a form agreed upon by the Operating Committee, such as a secure Web site.

VII. Administrative Functions of the Processor

Subject to the general direction of the Operating Committee, the Processor shall be responsible for carrying out all administrative functions necessary to the operation and maintenance of the consolidated information collection and dissemination system provided for in this Plan, including, but not limited to, record keeping, billing, contract administration, and the preparation of financial reports.

VIII. Transmission of Information to Processor by Participants

A. Quotation Information

Each Participant shall, during the time it is open for trading be responsible promptly to collect and transmit to the Processor accurate Quotation Information in Eligible Securities through any means prescribed herein.

Quotation Information shall include:

1. Identification of the Eligible Security, using the Nasdaq Symbol;
2. The price bid and offered, together with size;
3. The NASD Participant along with the NASD Participant's market participant identification or Participant from which the quotation emanates;
4. Identification of quotations that are not firm; and
5. Through appropriate codes and messages, withdrawals and similar matters.

B. Transaction Reports

Each Participant shall, during the time it is open for trading, be responsible promptly to collect and transmit to the Processor Transaction Reports in Eligible Securities executed in its Market by means prescribed herein. With respect to orders sent by one Participant Market to another Participant Market for execution, each Participant shall adopt procedures governing the reporting of transactions in Eligible Securities specifying that the transaction will be reported by the Participant whose member sold the security. This provision shall apply only to transactions between Plan Participants.

Transaction Reports shall include:

1. Identification of the Eligible Security, using the Nasdaq Symbol;
2. The number of shares in the transaction;
3. The price at which the shares were purchased or sold;
4. The buy/sell/cross indicator;
5. The Market of execution; and,
6. Through appropriate codes and messages, late or out-of-sequence trades, corrections and similar matters.

All such Transaction Reports shall be transmitted to the Processor within 90 seconds after the time of execution of the transaction. Transaction Reports transmitted beyond the 90-second period shall be designated as "late" by the appropriate code or message.

The following types of transactions are not required to be reported to the Processor pursuant to the Plan:

1. Transactions that are part of a primary distribution by an issuer or of

a registered secondary distribution or of an unregistered secondary distribution;

2. Transactions made in reliance on Section 4(2) of the Securities Act of 1933;

3. Transactions in which the buyer and the seller have agreed to trade at a price unrelated to the Current Market for the security, *e.g.*, to enable the seller to make a gift;

4. Odd-lot transactions;

5. The acquisition of securities by a broker-dealer as principal in anticipation of making an immediate exchange distribution or exchange offering on an exchange;

6. Purchases of securities pursuant to a tender offer; and

7. Purchases or sales of securities effected upon the exercise of an option pursuant to the terms thereof or the exercise of any other right to acquire securities at a pre-established consideration unrelated to the Current Market.

C. Symbols for Market Identification for Quotation Information and Transaction Reports

The following symbols shall be used to denote the marketplaces:

Code	Participant
A	American Stock Exchange LLC.
B	Boston Stock Exchange, Inc.
W	Chicago Board Options Exchange, Inc.
M	Chicago Stock Exchange, Inc.
I	International Securities Exchange, Inc.
D	NASD.
Q	Nasdaq Stock Market LLC.
C	National Stock Exchange, Inc.
P	NYSE Arca, Inc.
X	Philadelphia Stock Exchange, Inc.

D. Whenever a Participant determines that a level of trading activity or other unusual market conditions prevent it from collecting and transmitting Quotation Information or Transaction Reports to the Processor, or where a trading halt or suspension in an Eligible Security is in effect in its Market, the Participant shall promptly notify the Processor of such condition or event and shall resume collecting and transmitting Quotation Information and Transaction Reports to it as soon as the condition or event is terminated. In the event of a system malfunction resulting in the inability of a Participant or its members to transmit Quotation Information or Transaction Reports to the Processor, the Participant shall promptly notify the Processor of such event or condition. Upon receiving such notification, the Processor shall take appropriate action, including either closing the quotation or purging the system of the affected quotations.

IX. Market Access

A. Each Participant shall permit each NASD market participant, acting in its capacity as such, direct telephone access to the specialist, trading post, market maker and supervisory center in each Eligible Security in which such NASD market participant is registered as a market maker or electronic communications network/alternative trading system with NASD. Such access shall include appropriate procedures or requirements by each Participant or employee to assure the timely response to communications received through telephonic access. No Participant shall permit the imposition of any access or execution fee, or any other fee or charge, with respect to transactions in Eligible Securities effected with NASD market participants which are communicated to the floor by telephone pursuant to the provisions of this Plan. A Participant shall be free to charge for other types of access to its floor or facilities.

B. The NASD shall assure that each Participant, and its members shall have direct telephone access to the trading desk of each NASD market participant in each Eligible Security in which the Participant displays quotations, and to the NASD Supervisory Center. Such access shall include appropriate procedures or requirements to assure the timely response of each NASD market participant to communications received through telephone access. No NASD market participant shall impose any access or execution fee, or any other fee or charge, with respect to transactions in Eligible Securities effected with a member of a Participant which are communicated by telephone pursuant to the provisions of this Plan.

X. Regulatory Halts

A. Whenever, in the exercise of its regulatory functions, the Listing Market for an Eligible Security determines that a Regulatory Halt is appropriate pursuant to Section III.S, the Listing Market will notify all other Participants pursuant to Section X.E and all other Participants shall also halt or suspend trading in that security until notification that the halt or suspension is no longer in effect. The Listing Market shall immediately notify the Processor of such Regulatory Halt as well as notice of the lifting of a Regulatory Halt. The Processor, in turn, shall disseminate to Participants notice of the Regulatory Halt (as well as notice of the lifting of a regulatory halt) through the UTP Quote Data Feed. This notice shall serve as official notice of a regulatory halt for purposes of the Plan only, and shall not substitute or otherwise supplant notice that a Participant may recognize or require under its own rules. Nothing in this provision shall be read so as to supplant or be inconsistent with a Participant's own rules on trade halts, which rules apply to the Participant's own members. The Processor will reject any quotation information or transaction reports received from any Participant on an Eligible Security that has a Regulatory Halt in effect.

B. Whenever the Listing Market determines that an adequate publication or dissemination of information has occurred so as to permit the termination of the Regulatory Halt then in effect, the Listing Market shall promptly notify the Processor and each of the other Participants that conducts trading in such security pursuant to Section X.F. Except in extraordinary circumstances, adequate publication or dissemination shall be presumed by the Listing Market to have occurred upon the expiration of one hour after initial publication in a national news dissemination service of the information that gave rise to the Regulatory Halt.

C. Except in the case of a Regulatory Halt, the Processor shall not cease the dissemination of quotation or transaction information regarding any Eligible Security. In particular, it shall not cease dissemination of such information because of a delayed opening, imbalance of orders or other market-related problems involving such security. During a regulatory halt, the Processor shall collect and disseminate Transaction Information but shall cease collection and dissemination of all Quotation Information.

D. For purposes of this Section X, "Listing Market" for an Eligible Security means the Participant's Market on which the Eligible Security is listed. If an Eligible Security is dually listed, Listing Market shall mean the Participant's Market on which the Eligible Security is listed that also has the highest number of the average of the reported transactions and reported share volume for the preceding 12-month period. The Listing Market for dually-listed Eligible Securities shall be determined at the beginning of each calendar quarter.

E. For purposes of coordinating trading halts in Eligible Securities, all Participants are required to utilize the national market system communication media ("Hoot-n-Holler") to verbally provide real-time information to all Participants. Each Participant shall be required to continuously monitor the Hoot-n-Holler system during market hours, and the failure of a Participant to

do so at any time shall not prevent the Listing Market from initiating a Regulatory Halt in accordance with the procedures specified herein.

1. The following procedures shall be followed when one or more Participants experiences extraordinary market activity in an Eligible Security that is believed to be caused by the misuse or malfunction of systems operated by or linked to one or more Participants.

a. The Participant(s) experiencing the extraordinary market activity or any Participant that becomes aware of extraordinary market activity will immediately use best efforts to notify all Participants of the extraordinary market activity utilizing the Hoot-n-Holler system.

b. The Listing Market will use best efforts to determine whether there is material news regarding the Eligible Security. If the Listing Market determines that there is non-disclosed material news, it will immediately call a Regulatory Halt pursuant to Section X.E.2.

c. Each Participant(s) will use best efforts to determine whether one of its systems, or the system of a direct or indirect participant in its market, is responsible for the extraordinary market activity.

d. If a Participant determines the potential source of extraordinary market activity pursuant to Section X.1.c., the Participant will use best efforts to determine whether removing the quotations of one or more direct or indirect market participants or barring one or more direct or indirect market participants from entering orders will resolve the extraordinary market activity. Accordingly, the Participant will prevent the quotations from one or more direct or indirect market participants in the affected Eligible Securities from being transmitted to the Processor.

e. If the procedures described in Section X.E.1.a.–d. do not rectify the situation, the Participant(s) experiencing extraordinary market activity will cease transmitting all quotations in the affected Eligible Securities to the Processor.

f. If the procedures described in Section X.E.1.a–e do not rectify the situation within five minutes of the first notification through the Hoot-n-Holler system, or if Participants agree to call a halt sooner through unanimous approval among those Participants actively trading impacted Eligible Securities, the Listing Market may determine based on the facts and circumstances, including available input from Participants, to declare an Extraordinary Market Regulatory Halt in the affected Eligible Securities. Simultaneously with the notification of the Processor to suspend the dissemination of quotations across all Participants, the Listing Market must verbally notify all Participants of the trading halt utilizing the Hoot-n-Holler system.

g. Absent any evidence of system misuse or malfunction, best efforts will be used to ensure that trading is not halted across all Participants.

2. If the Listing Market declares a Regulatory Halt in circumstances other than pursuant to Section X.E.1.f., the Listing Market must, simultaneously with the notification of the Processor to suspend the dissemination of quotations across all Participants, verbally notify all Participants of the trading halt utilizing the Hoot-n-Holler system.

F. If the Listing Market declares a Regulatory Halt, trading will resume according to the following procedures:

1. Within 15 minutes of the declaration of the halt, all Participants will make best efforts to indicate via the Hoot-n-Holler their intentions with respect to canceling or modifying transactions.

2. All Participants will disseminate to their members information regarding the canceled or modified transactions as promptly as possible, and in any event prior to the resumption of trading.

3. After all Participants have met the requirements of Section X.F.1–2, the Listing Market will notify the Participants utilizing the Hoot-n-Holler and the Processor when trading may resume. Upon receiving this information, Participants may commence trading pursuant to Section X.A.

XI. Hours of Operation

A. Quotation Information may be entered by Participants as to all Eligible Securities in which they make a market between 9:30 a.m. and 4 p.m. Eastern Time ("ET") on all days the Processor is in operation. Transaction Reports shall be entered between 9:30 a.m. and 4:01:30 p.m. ET by Participants as to all Eligible Securities in which they execute transactions between 9:30 a.m. and 4 p.m. ET on all days the Processor is in operation.

B. Participants that execute transactions in Eligible Securities outside the hours of 9:30 a.m. ET and 4 p.m., ET, shall be required to report such transactions as follows:

(i) Transactions in Eligible Securities executed between 4 a.m. and 9:29:59 a.m. ET and between 4:00:01 and 8 p.m. ET, shall be designated as ".T" trades to denote their execution outside normal market hours;

(ii) Transactions in Eligible Securities executed after 8 p.m. and before 12 a.m. (midnight) shall be reported to the Processor between the hours of 4 a.m. and 8 p.m. ET on the next business day (T+1), and shall be designated "as/of" trades to denote their execution on a prior day, and be accompanied by the time of execution;

(iii) Transactions in Eligible Securities executed between 12 a.m. (midnight) and 4 a.m. ET shall be transmitted to the Processor between 4 a.m. and 9:30 a.m. ET, on trade date, shall be designated as ".T" trades to denote their execution outside normal market hours, and shall be accompanied by the time of execution;

(iv) Transactions reported pursuant to this provision of the Plan shall be included in the calculation of total trade volume for purposes of determining net distributable operating revenue, but shall not be included in the calculation of the daily high, low, or last sale.

C. Late trades shall be reported in accordance with the rules of the Participant in whose Market the transaction occurred and can be reported between the hours of 4 a.m. and 8 p.m.

D. The Processor shall collect, process and disseminate Quotation Information in Eligible Securities at other times between 4 a.m. and 9:30 a.m. ET, and after 4 p.m. ET, when any Participant or Nasdaq market participant is open for trading, until 8 p.m. ET (the "Additional Period"); provided, however, that the best bid and offer quotation will not be disseminated before 4 a.m. or after 8 p.m. ET. Participants that enter Quotation Information or submit Transaction Reports to the Processor during the Additional Period shall do so for all Eligible Securities in which they enter quotations.

XII. Undertaking by All Participants

The filing with and approval by the Commission of this Plan shall obligate each Participant to enforce compliance by its members with the provisions thereof. In all other respects not inconsistent herewith, the rules of each Participant shall apply to the actions of its members in effecting, reporting, honoring and settling transactions executed through its facilities, and the entry, maintenance and firmness of quotations to ensure that such occurs in a manner consistent with just and equitable principles of trade.

XIII. Financial Matters

A. Development Costs

Any Participant becoming a signatory to this Plan after June 26, 1990, shall, as

a condition to becoming a Participant, pay to the other Plan Participants a proportionate share of the aggregate development costs previously paid by Plan Participants to the Processor, which aggregate development costs totaled $439,530, with the result that each Participant's share of all development costs is the same.

Each Participant shall bear the cost of implementation of any technical enhancements to the Nasdaq system made at its request and solely for its use, subject to reapportionment should any other Participant subsequently make use of the enhancement, or the development thereof.

B. Cost Allocation and Revenue Sharing

The provisions governing cost allocation and revenue sharing among the Participants are set forth in Exhibit 1 to the Plan.

C. Maintenance of Financial Records

The Processor shall maintain records of revenues generated and development and operating expenditures incurred in connection with the Plan. In addition, the Processor shall provide the Participants with: (a) A statement of financial and operational condition on a quarterly basis; and (b) an audited statement of financial and operational condition on an annual basis.

XIV. Indemnification

Each Participant agrees, severally and not jointly, to indemnify and hold harmless each other Participant, Nasdaq, and each of its directors, officers, employees and agents (including the Operating Committee and its employees and agents) from and against any and all loss, liability, claim, damage and expense whatsoever incurred or threatened against such persons as a result of any Transaction Reports, Quotation Information or other information reported to the Processor by such Participant and disseminated by the Processor to Vendors. This indemnity agreement shall be in addition to any liability that the indemnifying Participant may otherwise have. Promptly after receipt by an indemnified Participant of notice of the commencement of any action, such indemnified Participant will, if a claim in respect thereof is to be made against an indemnifying Participant, notify the indemnifying Participant in writing of the commencement thereof; but the omission to so notify the indemnifying Participant will not relieve the indemnifying Participant from any liability which it may have to any indemnified Participant. In case any such action is brought against any indemnified Participant and it promptly notifies an indemnifying Participant of the commencement thereof, the indemnifying Participant will be entitled to participate in, and, to the extent that it may wish, jointly with any other indemnifying Participant similarly notified, to assume and control the defense thereof with counsel chosen by it. After notice from the indemnifying Participant of its election to assume the defense thereof, the indemnifying Participant will not be liable to such indemnified Participant for any legal or other expenses subsequently incurred by such indemnified Participant in connection with the defense thereof but the indemnified Participant may, at its own expense, participate in such defense by counsel chosen by it without, however, impairing the indemnifying Participant's control of the defense. The indemnifying Participant may negotiate a compromise or settlement of any such action, provided that such compromise or settlement does not require a contribution by the indemnified Participant.

XV. Withdrawal

Any Participant may withdraw from the Plan at any time on not less than 30 days prior written notice to each of the other Participants. Any Participant withdrawing from the Plan shall remain liable for, and shall pay upon demand, any fees for equipment or services being provided to such Participant pursuant to the contract executed by it or an agreement or schedule of fees covering such then in effect.

A withdrawing Participant shall also remain liable for its proportionate share, without any right of recovery, of administrative and operating expenses, including start-up costs and other sums for which it may be responsible pursuant to Section XIV hereof. Except as aforesaid, a withdrawing Participant shall have no further obligation under the Plan or to any of the other Participants with respect to the period following the effectiveness of its withdrawal.

XVI. Modifications to Plan

The Plan may be modified from time to time when authorized by the agreement of all of the Participants, subject to the approval of the SEC or which otherwise becomes effective pursuant to Section 11A of the Act and Rule 608 of Regulation NMS.

XVII. Applicability of Securities Exchange Act of 1934

The rights and obligations of the Participants and of Vendors, News Services, Subscribers and other persons contracting with Participant in respect of the matters covered by the Plan shall at all times be subject to any applicable provisions of the Act, as amended, and any rules and regulations promulgated thereunder.

XVIII. Operational Issues

A. Each Participant shall be responsible for collecting and validating quotes and last sale reports within their own system prior to transmitting this data to the Processor.

B. Each Participant may utilize a dedicated Participant line into the Processor to transmit trade and quote information in Eligible Securities to the Processor. The Processor shall accept from Exchange Participants input for only those issues that are deemed Eligible Securities.

C. The Processor shall consolidate trade and quote information from each Participant and disseminate this information on the Processor's existing vendor lines.

D. The Processor shall perform gross validation processing for quotes and last sale messages in addition to the collection and dissemination functions, as follows:

1. Basic Message Validation.

(a) The Processor may validate format for each type of message, and reject non-conforming messages.

(b) Input must be for an Eligible Security.

2. Logging Function—The Processor shall return all Participant input messages that do not pass the validation checks (described above) to the inputting Participant, on the entering Participant line, with an appropriate reject notation. For all accepted Participant input messages (*i.e.*, those that pass the validation check), the information shall be retained in the Processor system.

XIX. Headings

The section and other headings contained in this Plan are for reference purposes only and shall not be deemed to be a part of this Plan or to affect the meaning or interpretation of any provisions of this Plan.

XX. Counterparts

This Plan may be executed by the Participants in any number of counterparts, no one of which need contain the signature of all Participants. As many such counterparts as shall together contain all such signatures shall constitute one and the same instrument.

XXI. Depth of Book Display

The Operating Committee has determined that the entity that succeeds Nasdaq as the Processor should have the ability to collect, consolidate, and disseminate quotations at multiple price levels beyond the best bid and best offer from any Participant that voluntarily chooses to submit such quotations while determining that no Participant shall be required to submit such information. The Operating Committee has further determined that the costs of developing, collecting, processing, and disseminating such depth of book data shall be borne exclusively by those Participants that choose to submit this information to the Processor, by whatever allocation those Participants may choose among themselves. The Operating Committee has determined further that the primary purpose of the Processor is the collection, processing and dissemination of best bid, best offer and last sale information ("core data"), and as such, the Participants will adopt procedures to ensure that such functionality in no way hinders the collecting, processing and dissemination of this core data.

Therefore, implementing the depth of book display functionality will require a plan amendment that addresses all pertinent issues, including:

(1) Procedures for ensuring that the fully-loaded cost of the collection, processing, and dissemination of depth-of-book information will be tracked and invoiced directly to those Plan Participants that voluntarily choose to send that data, voluntarily, to the Processor, allocating in whatever manner those Participants might agree; and

(2) Necessary safeguards the Processor will take to ensure that its processing of depth-of-book data will not impede or hamper, in any way, its core Processor functionality of collecting, consolidating, and disseminating National Best Bid and Offer data, exchange best bid and offer data, and consolidated last sale data.

Upon approval of a Plan amendment implementing depth of book display, this article of the Plan shall be automatically deleted.

In witness whereof, this Plan has been executed as of the ____ day of _____, 200___, by each of the Signatories hereto.

American Stock Exchange LLC
By:

Boston Stock Exchange, Inc.
By:

Chicago Stock Exchange, Inc.
By:

Chicago Board Options Exchange, Inc.
By:

International Securities Exchange, Inc.
By:

NASD
By:

National Stock Exchange, Inc.
By:

NYSE Arca, Inc.
By:

Philadelphia Stock Exchange, Inc.
By:

The Nasdaq Stock Market LLC
By:

Exhibit 1

1. Each Participant eligible to receive revenue under the Plan will receive an annual payment for each calendar year to be determined by multiplying (i) That Participant's percentage of total volume in Nasdaq securities reported to the Processor for that calendar year by (ii) the total distributable net operating income (as defined below) for that calendar year. In the event that total distributable net operating income is negative, each Participant eligible to receive revenue under the Plan will receive an annual bill for each calendar year to be determined according to the same formula (described in this paragraph) for determining annual payments to eligible Participants.

2. A Participant's percentage of total volume in Nasdaq securities will be calculated by taking the average of (i) The Participant's percentage of total trades in Nasdaq securities reported to the Processor for the year and (ii) the Participant's percentage of total share volume in Nasdaq securities reported to the Processor for the year (trade/volume average). For any given year, a Participant's percentage of total trades shall be calculated by dividing the total number of trades that that Participant reports to the Processor for that year by the total number of trades in Nasdaq securities reported to the Processor for the year. A Participant's total share volume shall be calculated by multiplying the total number of trades in Nasdaq securities in that year that that Participant reports to the Processor by the number of shares for each such trade. Unless otherwise stated in this agreement, a year shall run from January 1 to December 31 and quarters shall end on March 31, June 30, September 30, and December 31. Processor shall endeavor to provide Participants with written estimates of each Participant's percentage of total volume within five business days of month end.

3. For purposes of this Exhibit 1, net distributable operating income for any particular calendar year shall be calculated by adding all revenues from the UTP Quote Data Feed, the UTP Trade Data Feed, and the OTC Montage Data Feed including revenues from the dissemination of information respecting Eligible Securities to foreign marketplaces (collectively, "the Data Feeds"), and subtracting from such revenues the costs incurred by the Processor, set forth below, in collecting, consolidating, validating, generating, and disseminating the Data Feeds. These costs include, but are not limited to, the following:

a. The Processor costs directly attributable to creating OTC Montage Data Feed, including:

1. Cost of collecting Participant quotes into the Processor's quote engine;

2. Cost of processing quotes and creating OTC Montage Data Feed messages within the Processor's quote engine;

3. Cost of the Processor's communication management subsystem that distributes OTC Montage Data Feed to the market data vendor network for further distribution.

b. The costs directly attributable to creating the UTP Quote Data Feed, including:

1. The costs of collecting each Participant's best bid, best offer, and aggregate volume into the Processor's quote engine and, in the case of NASD, the costs of identifying the NASD Participant(s) that constitute NASD's Best Bid and Offer quotations;

2. Cost of calculating the national best bid and offer price within the Processor's quote engine;

3. Cost of creating the UTP Quote Data Feed message within the Processor's quote engine;

4. Cost of the Processor's communication management subsystem that distributes the UTP Quote Data Feed to the market data vendors' networks for further distribution.

c. The costs directly attributable to creating the UTP Trade Data Feed, including:

1. The costs of collecting each Participant's last sale and volume amount into the Processor's quote engine;

2. Cost of determining the appropriate last sale price and volume amount within the Processor's trade engine;

3. Cost of utilizing the Processor's trade engine to distribute the UTP Trade Data Feed for distribution to the market data vendors.

4. Cost of the Processor's communication management subsystem that distributes the UTP Trade Data Feed to the marker data vendors' networks for further distribution.

d. The additional costs that are shared across all Data Feeds, including:

1. Telecommunication Operations costs of supporting the Participant lines into the Processor's facilities;

2. Telecommunications Operations costs of supporting the external market data vendor network;

3. Data Products account management and auditing function with the market data vendors;

4. Market Operations costs to support symbol maintenance, and other data integrity issues;

5. Overhead costs, including management support of the Processor, Human Resources, Finance, Legal, and Administrative Services.

e. Processor costs excluded from the calculation of net distributable operating income include trade execution costs for transactions executed using a Nasdaq service and trade report collection costs reported through a Nasdaq service, as such services are market functions for which Participants electing to use such services pay market rate.

f. For the purposes of this provision, the following definitions shall apply:

1. "Quote engine" shall mean the Nasdaq's NT or Tandem system that is operated by Nasdaq to collect quotation information for Eligible Securities;

2. "Trade engine" shall mean the Nasdaq Tandem system that is operated by Nasdaq for the purpose of collecting last sale information in Eligible Securities.

3. At the time a Participant implements a Processor-approved electronic interface with the Processor, the Participant will become eligible to receive revenue.

4. Processor shall endeavor to provide Participants with written estimates of each Participant's quarterly net distributable operating income within 45 calendar days of the end of the quarter, and estimated quarterly payments or billings shall be made on the basis of such estimates. All quarterly payments or billings shall be made to each eligible Participant within 45 days following the end of each calendar quarter in which the Participant is eligible to receive revenue, provided that each quarterly payment or billing shall be reconciled against a Participant's cumulative year-to-date payment or billing received to date and adjusted accordingly, and further provided that the total of such estimated payments or billings shall be reconciled at the end of each calendar year and, if necessary, adjusted by March 31st of the following year. Interest shall be included in quarterly payments and in adjusted payments made on March 31st of the following year. Such interest shall accrue monthly during the period in which revenue was earned and not yet paid and will be based on the 90-day Treasury bill rate in effect at the end of the quarter in which the payment is made. Monthly interest shall start accruing 45 days following the month in which it is earned and accrue until the date on which the payment is made.

In conjunction with calculating estimated quarterly and reconciled annual payments under this Exhibit 1, the Processor shall submit to the Participants a quarterly itemized statement setting forth the basis upon which net operating income was calculated, including a quarterly itemized statement of the Processor costs set forth in Paragraph 3 of this Exhibit. Such Processor costs and Plan revenues shall be adjusted annually based solely on the Processor's quarterly itemized statement audited pursuant to Processor's annual audit. Processor shall pay or bill Participants for the audit adjustments within thirty days of completion of the annual audit. By majority vote of the Operating Committee, the Processor shall engage an independent auditor to audit the Processor's costs or other calculation(s), the cost of which audit shall be shared equally by all Participants. The Processor agrees to cooperate fully in providing the information necessary to complete such audit.

[FR Doc. E6–15515 Filed 9–18–06; 8:45 am]
BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54427; File No. SR–NYSE–2006–58]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Definition of Crowd and To Clarify the Requirements of Exchange Rule 70.20(f)

September 12, 2006.

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 September 1, 2006, the New York Stock Exchange LLC ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change as a "non-controversial" rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange Rule 70.30, which sets forth the definition of Crowd, and to clarify the requirements of Exchange Rule 70.20(f). The text of the proposed rule change is available on the NYSE's Web site at *http://www.nyse.com*, at the NYSE's Office of the Secretary, 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

The Exchange's Hybrid Market℠ integrates the auction market with automated trading. Essential to the auction market is the interaction among members on the Floor and between Floor brokers and orders in the Display Book® System, that creates opportunities for price improvement, provides information about changing market conditions, and serves as a catalyst to trading.[5] Exchange Rule 70.30 defines a Crowd as "* * * five contiguous panels at any one post where securities are traded."[6] Exchange Rule 70.30 further requires that Floor brokers be in the Crowd in order to represent orders that the Floor broker has in his

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 53539 (March 22, 2006), 71 FR 16353 (March 31, 2006).

[6] Telephone conversation between Deanna Logan, Director, Office of the General Counsel, NYSE, and Cyndi Rodriguez, Special Counsel, Division of Market Regulation, Commission, on September 7, 2006.

or her agency interest files (*i.e.*, in order to "e-Quote"). Pursuant to Exchange Rule 70.30, a Floor broker may only have agency interest files or e-Quote in one Crowd at a time.

As the Exchange continues its implementation of the Hybrid Market℠ it has gained experience operating in the Hybrid Market℠ environment. Based on this experience, the Exchange seeks to amend the definition of Crowd in order to better facilitate the critical interaction among members on the Floor.

In practice, the five contiguous panel definition has proven too rigid a concept. The Exchange Floor is made up of five trading rooms. Trading rooms have large, in some instances rounded, posts that each contain distinct panels at which designated securities are traded. The post configuration on the Floor is such that, in certain instances, individuals standing at two separate posts are closer to each other than individuals standing at the first and fifth contiguous panels of the same post. For example, a Floor broker standing in the Crowd at Post 1 Panel B is easily able to see and hear the members located at Post 2 Panel L because they are located directly across from each other. In contrast, a Floor broker at Post 1 Panel B cannot easily see or hear the members located at Post 1 Panel G, which is exactly five contiguous panels away. Specifically, Panel B is on the opposite side of Post 1 from Panel G and thus the Floor broker must walk partly around Post 1 in order to effectively interact with the members at Post 1 Panel G. Nevertheless, under the current rule, the Floor broker standing at Post 1 Panel B is considered part of the Crowd that includes Post 1 Panel G. Further, pursuant to the current rule, in order for the Floor broker at Post 1 Panel B to represent an order in a security traded at Post 2 Panel L, the Floor broker would first have to withdraw his or her agency interest or e-Quote from the Post 1 Panels B–G Crowd.

In this filing, the Exchange proposes to amend the definition of the Crowd in order to reflect more accurately the areas which most efficiently facilitate the beneficial interaction among the members on the Floor. The Exchange believes that the best way to facilitate this interaction is to re-define the concept of Crowd from strictly contiguous panels to encompass an area that enables members to more efficiently conduct business. Essentially, this is the area in which members can see and hear the business conducted at a group of panels. These panels may be at one or more posts. To accomplish this, the Exchange proposes to divide each trading room of the Floor into specific areas, which will be identified on the Floor in a recognizable way. Each area will serve to delineate the boundaries of the Crowd. The Crowds will be created in such a way that when a Floor broker is standing in a Crowd, the Floor broker generally will be able to see and hear the business conducted at each post/panel within that Crowd. Similarly, the specialists in panels included in a Crowd will be able to see and hear the Floor brokers who are representing agency interests or e-Quotes in that Crowd. In addition to physically identifying each Crowd on the Floor in a unique manner, the Exchange will disseminate to its members a notice identifying the specific post(s) and panels comprising each Crowd.

As is the case today, once in a Crowd, a Floor broker is able to e-Quote in all securities located in that Crowd. If the Floor broker leaves one Crowd in order to work in another, the Floor broker is required to withdraw his or her agency interest from the Crowd he or she is leaving. However, a Floor broker may obtain "market looks" in a securities located in other Crowds without canceling his or her e-Quotes. In this filing, the Exchange further seeks to amend Rule 70.20(f) to reflect this concept.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general,[7] and furthers the objectives of Section 6(b)(5) of the Act in particular,[8] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[11] However, Rule 19b–4(f)(6)(iii)[12] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange provided the Commission with written notice of its intent to file this proposed rule change at least five business days prior to the date of filing of the proposed rule change. In addition, the Exchange has requested that the Commission waive the 30-day operative delay to allow the Exchange to implement the proposed rule change and avoid any undue confusion. The Exchange believes that the proposed rule change merely seeks to reflect more accurately the areas which most efficiently facilitate the beneficial interaction among the trading professionals on the Floor of the Exchange. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it would allow the Exchange to immediately implement the revised definition of Crowd without undue delay and clarify in Exchange Rule 70.20(f) a Floor broker's ability to obtain "market look" information while in a Crowd. For this reason, the Commission designates the proposal to be effective and operative upon filing with the Commission.[13]

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] *Id.*

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such proposed 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–NYSE–2006–58 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2006–58. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2006–58 and should be submitted on or before October 10, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Nancy M. Morris,

Secretary.

[FR Doc. E6–15499 Filed 9–18–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54429; File No. SR–Phlx–2006–52]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change, and Amendment No. 1 Thereto, Relating to Quoting Obligations

September 12, 2006.

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 August 15, 2006, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III, below, which items have been prepared by the Phlx. On September 8, 2006, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend Phlx Rule 1014, "Obligations and Restrictions Applicable to Specialists and Registered Options Traders," by adopting Phlx Rule 1014(b)(ii)(D)(4), which would state that Streaming Quote Traders ("SQTs"),[4] Remote Streaming Quote Traders ("RSQTs"),[5] and SQTs and RSQTs that receive Directed Orders[6] ("DSQTs" and "DRSQTs," respectively) would be deemed not to be assigned in any option series until the time to expiration for such series is less than nine months. Therefore, according to the Exchange, the market making obligations described in Phlx Rule 1014(b)(ii)(D) would not apply to SQTs, RSQTs, DSQTs and DRSQTs respecting series with an expiration of nine months or greater. The Exchange proposes to adopt the rule on a six-month pilot basis, beginning on the date of approval of the proposed rule change. The text of the proposed rule change, as amended, is available on the Phlx's Web site at *http://www.phlx.com*, the Phlx's Office of the Secretary, 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 Phlx included statements concerning the purpose of and basis for the proposed rule change, as amended, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change, as amended, is to mitigate the Exchange's quote traffic and capacity by relaxing the quoting obligations applicable to SQTs, RSQTs, DSQTs, and DRSQTs, thereby reducing the number of quotations required to be submitted on the Exchange.

Current Quoting Obligations. Currently, SQTs and RSQTs that do not receive Directed Orders in a Streaming Quote Option[7] are responsible to quote

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 made a clarifying change to the proposed rule text, as well as two minor technical changes to the purpose section.

[4] An SQT is an Exchange Registered Options Trader ("ROT") who has received permission from the Exchange to generate and submit option quotations electronically through AUTOM in eligible options to which such SQT is assigned. An SQT may only submit such quotations while such SQT is physically present on the floor of the Exchange. *See* Phlx Rule 1014(b)(ii)(A).

[5] An RSQT is an ROT that is a member or member organization with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically through AUTOM in eligible options to which such RSQT has been assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange. *See* Phlx Rule 1014(b)(ii)(B).

[6] The term "Directed Order" means any customer order (other than a stop or stop-limit order as defined in Phlx Rule 1066) to buy or sell which has been directed to a particular specialist, RSQT, or SQT by an Order Flow Provider. *See* Phlx Rule 1080(l)(i)(A).

[7] A Streaming Quote Option is an option in which SQTs may generate and submit option quotations if such SQT is physically present on the Exchange

continuous, two-sided markets in not less than 60% of the series in each Streaming Quote Option in which such SQT or RSQT is assigned.[8]

A DSQT or DRSQT is responsible to quote continuous, two-sided markets in not less than 99% of the series listed on the Exchange in at least 60% of the options in which such DSQT or DRSQT is assigned.[9] Whenever a DSQT or DRSQT enters a quotation in an option in which such DSQT or DRSQT is assigned, such DSQT or DRSQT must maintain continuous quotations for not less than 99% of the series of the option listed on the Exchange until the close of that trading day.[10]

The Proposal. One way to reduce the number of quotations submitted by SQTs, RSQTs, DSQTs and DRSQTs is to relax the quoting obligations that require quotes to be generated. Specifically, the Exchange proposes, on a six-month pilot basis, to permit SQTs, RSQTs, DSQTs and DRSQTs not to submit streaming quotations in options with a series of more than nine months until expiration, which are known as LEAPS (Long-term Equity Anticipation Securities), by deeming them not to be assigned in any option series until the time to expiration for such series is less than nine months. The effect of this is to relax their quoting obligations, and ultimately the number of quotes they are required to submit, because the quoting obligations in Phlx Rule 1014(b)(ii)(D)(1) apply only to those options in which they are assigned.

Specialists, currently responsible to quote continuous, two-sided markets in not less than 99% of the series in each Streaming Quote Option in which such specialist is assigned,[11] would still be required to quote LEAPS, so the Exchange would continue to disseminate a two-sided market in LEAPS. The Exchange believes that this should facilitate order routing decisions for order flow providers in determining to send order flow to the Exchange generally in all options series. Many order flow providers, from a technology standpoint, find it burdensome to determine to which market they route orders in a particular option based on whether that market trades LEAPS or not; it is simply easier to route to the market that does.

The Exchange proposes to effect the proposed rule change on a six-month pilot basis, beginning on the date the Commission approves this proposed rule filing.

2. Statutory Basis

The Exchange believes that its proposal, as amended, is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Section 6(b)(5) of the Act,[13] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, by relaxing the quoting requirements in LEAPS, thereby reducing the number of options quotations required to be submitted, which should enable the Exchange to mitigate quote traffic and use of capacity.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change, as amended, were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Phlx consents, the Commission will:

(A) by order approve such proposed rule change, as amended, or

(B) institute proceedings to determine whether the proposed rule change, as amended, 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, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2006–52 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2006–52. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2006–52 and should be submitted on or before October 10, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Nancy M. Morris,

Secretary.

[FR Doc. E6–15498 Filed 9–18–06; 8:45 am]

BILLING CODE 8010–01–P

floor, and RSQTs may generate and submit option quotations from off the floor of the Exchange, electronically. *See* Phlx Rule 1080(k). Currently, all options trading on the Exchange are Streaming Quote options.

[8] *See* Phlx Rule 1014(b)(ii)(D)(1).

[9] *See* Phlx Rule 1014(b)(ii)(D)(1).

[10] *See* Phlx Rule 1014(b)(ii)(D)(1).

[11] *See* Phlx Rule 1014(b)(ii)(D)(2).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Application of Swift Air, LLC for Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of order to show cause (Order 2006–9–10), Dockets OST–2005–22880 and OST 2005–23329.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue orders finding Swift Air, LLC fit, willing, and able, and awarding it certificates of public convenience and necessity to engage in interstate and foreign charter air transportation of persons, property and mail.

DATES: Persons wishing to file objections should do so no later than September 27, 2006.

ADDRESSES: Objections and answers to objections should be filed in Dockets OST–2005–22880 and OST 2005–23329, and addressed to U.S. Department of Transportation, Docket Operations, (M–30, Room PL–401), 400 Seventh Street, SW., Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ronâle Taylor, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–9721.

Dated: September 13, 2006.

Michael W. Reynolds,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 06–7743 Filed 9–18–06; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review; Danbury Municipal Airport; Danbury, CT

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure map for Danbury Municipal Airport, as submitted by the City of Danbury under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR Part 150, is in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for Danbury Municipal Airport under Part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before March 9, 2007.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure map and of the start of its review of the associated noise compatibility program is September 6, 2006. The public comment period ends on November 6, 2006.

FOR FURTHER INFORMATION CONTACT: John C. Silva, Federal Aviation Administration, New England Region, Airports Division, ANE–600, 12 New England Executive Park, Burlington, MA 01803.

Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure map submitted for Danbury Municipal Airport is in compliance with applicable requirements of Part 150, effective September 6, 2006. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before March 9, 2007. This notice also announces the availability of this program for public review and comment.

Under Section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA a noise exposure map which meets applicable regulations and which depicts noncompatible land uses as of the date of submission of such map, a description of projected aircraft operations, and the ways in which such operations will affect such map. The Act requires such map to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport. An airport operator who has submitted a noise exposure map that is found by FAA to be in compliance with the requirements of Federal Aviation Regulation (FAR) Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken, or proposes, for the introduction of additional non-compatible uses.

The City of Danbury submitted to the FAA, on September 6, 2006, a noise exposure map, descriptions, and other documentation that were produced during the Airport Noise Compatibility Planning (Part 150) study at Danbury Municipal airport from October 2003 to July 2006. It was requested that the FAA review this material as the noise exposure map, as described in Section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under Section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by City of Danbury. The specific maps under consideration were:

Danbury Airport, Part 150 Study—Noise Exposure Map:

1. Base Year 2003 Average Daily Noise Contours
2. Future Year 2008 Baseline DNL Noise Contours

The FAA has determined that the maps for Danbury Municipal Airport are in compliance with applicable requirements. This determination is effective on September 6, 2006.

FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program. If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under Section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure map to resolve questions concerning, for example, which properties should be covered by the provisions of Section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of a noise exposure map. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted the map, or with those public agencies and planning agencies with which consultation is required under Section 103 of the Act. The FAA has relied on the certification by the

airport operator, under Section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Danbury Municipal Airport, also effective on September 6, 2006. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before March 9, 2007. The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, Section 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing non compatible land uses and preventing the introduction of additional non-compatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure map, the FAA's evaluation of the map, and the proposed noise compatibility program are available for examination at the following locations:

Danbury Municipal Airport, Danbury, CT.

Federal Aviation Administration, New England Region, Airports Division, ANE–600, 16 New England Executive Park, Burlington, Massachusetts 01803.

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Burlington, Massachusetts, on September 6, 2006.

LaVerne F. Reid,

Manager, Airports Division.

[FR Doc. 06–7736 Filed 9–18–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 13, 2006.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. 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 October 19, 2006 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0140.

Type of Review: Revision.

Title: Form 2210, Underpayment of Estimated Tax by Individuals, Estate, and Trusts; Form 2210–F, Underpayment of Estimated Tax by Farmers and Fishermen.

Forms: 2210 and 2210–F.

Description: Internal Revenue Code section 6654 imposes a penalty for failure to pay estimated tax. These forms are used by taxpayers to determine whether they are subject to the penalty and to compute the penalty if it applies. The Service uses this information to determine whether the taxpayer is subject to the penalty, and to verify the penalty amount.

Respondents: Individuals and households, and farms.

Estimated Total Burden Hours: 2,342,663 hours.

OMB Number: 1545–0155.

Type of Review: Extension.

Title: Investment Credit.

Form: 3468.

Description: Taxpayers are allowed a credit against their income tax for certain expenses they incur for their trades or businesses. Form 3468 is used to compute this investment tax credit. The information collected is used by the IRS to verify that the credit has been correctly computed.

Respondents: Businesses or other for-profit institutions.

Clearance Officer: Glenn P. Kirkland, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, (202) 622–3428.

OMB Reviewer: Alexander T. Hunt, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, (202) 395–7316.

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. E6–15529 Filed 9–18–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Education; Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Veterans' Advisory Committee on Education will meet on October 5–6, 2006. The meeting will be held at VA Central Office, 810 Vermont Avenue, NW., Washington, DC in room 530. The sessions will convene at 8:30 a.m. each day. On October 5, the session will end at 4 p.m., and on October 6 at 12 noon. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the administration of education and training programs for veterans, servicepersons, reservists, and dependents of veterans under Chapters 30, 32, 35, and 36 of title 38, and Chapter 1606 of title 10, United States Code.

On October 5, the session will begin with opening remarks and an overview by Mr. James Bombard, Committee Chair. In addition, this session will include discussions on recent legislation, a total force GI Bill, remedial education programs and other needs of Iraq War veterans, use of private and corporate funds to support educational programs, and a contract call center. Oral statements from the public will be heard at 3:15 p.m. On October 6, the Committee will review and summarize issues addressed during this meeting.

Interested persons may file written statements to the Committee before the meeting, or within 10 days after the meeting, with Mrs. Judith B. Timko, Designated Federal Officer, Department of Veterans Affairs, Benefits Administration (225B), 810 Vermont Aveneu, NW., Washington, DC 20420. Any member of the public wishing to attend the meeting should contact Mrs. Judith B. Timko or Mr. Robyn Noles at (202) 273–7187.

Dated: September 12, 2006.

By direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 06–7761 Filed 9–18–06; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Prosthetics and Special Disabilities Programs; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Advisory Committee on Prosthetics and Special Disabilities Programs will be held October 3–4, 2006, in Room 230, VA Central Office, 810 Vermont Avenue, NW., Washington, DC. The meeting will convene at 8:30 a.m. on both days. On October 3, it will adjourn at 4:30 p.m., and on October 4 at 12 noon. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on VA's prosthetic programs designed to provide state-of-the-art prosthetics and the associated rehabilitation research, development, and evaluation of such technology. The Committee also provides advice to the Secretary on special disability programs which are defined as any program administered by the Secretary to serve veterans with spinal cord injury, blindness or vision impairment, loss of or loss of the use of extremities, deafness or hearing impairment, or other serious incapacities in terms of daily life functions.

There will be presentations by various Veterans Health Administration officials throughout the meeting. On the morning of October 3, the Committee will be briefed by the Chief Consultant, Rehabilitation Services, and the Director, Physical Medicine and Rehabilitation. In the afternoon, there will be briefings from the Director of Ophthalmology and Optometry, and the Chief Prosthetics and Clinical Logistics Officer. On the morning of October 4, the Committee will be briefed by the Chief Research and Development Officer.

No time will be allocated for receiving oral presentations from the public. However, members of the public may direct questions or submit written statements for review by the Committee in advance for the meeting to Ms. Cynthia Wade, Designated Federal Officer, Veterans Health Administration, Patient Care Services, Rehabilitation Services (117), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Any member of the public wishing to attend the meeting should contact Ms. Wade at (202) 273–8485.

Dated: September 12, 2006.
By direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 06–7762 Filed 9–18–06; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Genomic Medicine Program Advisory Committee; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Genomic Medicine Program Advisory Committee will meet on October 16, 2006 in room 230 at the Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC. The meeting will convene at 8 a.m. and adjourn at 5:30 p.m. The meeting is open to the public.

The purpose of the Committee is to provide advice and make recommendations to the Secretary of Veterans Affairs on using genetic information to optimize medical care of veterans and to enhance development of tests and treatments for diseases particularly relevant to veterans.

The Committee will receive an overview of the VA health care system and electronic medical record, and will be asked to provide insight into optimal ways for VA to incorporate genomic information into its health care program while applying appropriate ethical oversight and protecting the privacy of veterans.

There will be a period reserved for public comments, and oral presentations will be limited to five minutes. Interested parties may provide written 1–2 page summaries of their comments for inclusion in the official meeting record.

Any member of the public seeking additional information should contact Dr. Timothy O'Leary at *timothy.oleary@va.gov.*

Dated: September 12, 2006.
By direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 06–7760 Filed 9–18–06; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Tuesday,
September 19, 2006

Part II

Department of Education

Notice of Proposed Priorities for Disability and Rehabilitation Research Projects and Rehabilitation Engineering Research Centers; Notice

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research—Disability and Rehabilitation Research Projects and Centers Program—Disability Rehabilitation Research Projects (DRRPs) and Rehabilitation Engineering Research Centers (RERCs)

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of proposed priorities for DRRPs and RERCs.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes certain funding priorities for the Disability and Rehabilitation Research Projects and Centers Program administered by the National Institute on Disability and Rehabilitation Research (NIDRR). Specifically, this notice proposes four priorities for DRRPs and seven priorities for RERCs. The Assistant Secretary may use these priorities for competitions in fiscal year (FY) 2007 and later years. We take this action to focus research attention on areas of national need. We intend these priorities to improve rehabilitation services and outcomes for individuals with disabilities.

DATES: We must receive your comments on or before October 19, 2006.

ADDRESSES: Address all comments about these proposed priorities to Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., room 6030, Potomac Center Plaza, Washington, DC 20204–2700. If you prefer to send your comments through the Internet, use the following address: *donna.nangle@ed.gov.*

You must include the term "Proposed Priorities for DRRPs and RERCs" in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Donna Nangle or Lynn Medley. Telephone: (202) 245–7462 (Donna Nangle) or (202) 245–7338 (Lynn Medley).

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: This notice of proposed priorities is in concert with President George W. Bush's New Freedom Initiative (NFI) and NIDRR's Final Long-Range Plan for FY 2005–2009 (Plan). The NFI can be accessed on the Internet at the following site: *http://www.whitehouse.gov/infocus/newfreedom.* The Plan, which was published in the **Federal Register** on February 15, 2006 (71 FR 8165), can be accessed on the Internet at the following site: *http://www.ed.gov/about/offices/list/osers/nidrr/policy.html.*

Through the implementation of the NFI and the Plan, NIDRR seeks to: (1) Improve the quality and utility of disability and rehabilitation research; (2) foster an exchange of expertise, information, and training to facilitate the advancement of knowledge and understanding of the unique needs of traditionally underserved populations; (3) determine best strategies and programs to improve rehabilitation outcomes for underserved populations; (4) identify research gaps; (5) identify mechanisms of integrating research and practice; and (6) disseminate findings.

One of the specific goals established in the Plan is for NIDRR to publish all of its proposed priorities, and following public comment, final priorities, annually, on a combined basis. Under this approach, NIDRR's constituents can submit comments at one time rather than at different times throughout the year, and NIDRR can move toward a fixed schedule for competitions and more efficient grant-making operations. This notice proposes priorities that NIDRR intends to use for DRRP and RERC competitions in FY 2007 and possibly later years. However, nothing precludes NIDRR from publishing additional priorities, if needed. Furthermore, NIDRR is under no obligation to make an award for each of these priorities. The decision to make an award will be based on the quality of applications received and available funding.

For FY 2007 competitions using priorities that already have been established and for which publication of a notice of proposed priority is unnecessary (*e.g.*, competitions for Field-Initiated Projects, Advanced Rehabilitation Research Training Projects, Fellowships, and Small Business Innovation Research Projects), NIDRR has published or will publish notices inviting applications. In addition to this notice, on June 7, 2006, NIDRR published a separate notice of proposed priorities for a DRRP on Vocational Rehabilitation: Transition Services that Lead to Competitive Employment Outcomes for Transition-Age Individuals With Blindness or Other Visual Impairment (71 FR 32938). More information on these other projects and programs that NIDRR intends to fund in FY 2007 can be found on the Internet at the following site: *http://www.ed.gov/fund/grant/apply/nidrr/priority-matrix.html.*

Invitation to Comment: We invite you to submit comments regarding these proposed priorities. To ensure that your comments have maximum effect in developing the notice of final priorities, we urge you to identify clearly the specific proposed priority or topic that each comment addresses.

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 these proposed priorities. 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 program.

During and after the comment period, you may inspect all public comments about these proposed priorities in room 6030, 550 12th Street, SW., Potomac Center Plaza, 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 these proposed priorities. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

We will announce the final priorities in one or more notices in the **Federal Register**. We will determine the final priorities after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing or using additional priorities, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use these proposed priorities, we invite applications 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 preference 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)).

Priorities: In this notice, we are proposing 4 priorities for DRRPs and 7 priorities for RERCs.

For DRRPs, the proposed priorities are:

- Priority 1—National Data and Statistical Center for the Burn Model Systems.
- Priority 2—Burn Model Systems (BMS) Centers.
- Priority 3—Inclusive Emergency Evacuation of Individuals with Disabilities.
- Priority 4—Traumatic Brain Injury Model Systems (TBIMS) Centers.

For RERCs, the proposed priorities are:

- Priority 5—RERC for Spinal Cord Injury.
- Priority 6—RERC for Recreational Technologies and Exercise Physiology Benefiting Individuals with Disabilities.
- Priority 7—RERC for Translating Physiological Data into Predictions for Functional Performance.
- Priority 8—RERC for Accessible Medical Instrumentation.
- Priority 9—RERC for Workplace Accommodations.
- Priority 10—RERC for Rehabilitation Robotics and Telemanipulation Systems.
- Priority 11—RERC for Emergency Management Technologies.

Disability and Rehabilitation Research Projects (DRRP) Program

The purpose of the DRRP program is to plan and conduct research, demonstration projects, training, and related activities to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended. DRRPs carry out one or more of the following types of activities, as specified and defined in 34 CFR 350.13 through 350.19: research, development, demonstration, training, dissemination, utilization, and technical assistance.

An applicant for assistance under this program must demonstrate in its application how it will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds (34 CFR 350.40(a)). The approaches an applicant may take to meet this requirement are found in 34 CFR 350.40(b). In addition, NIDRR intends to require all DRRP applicants to meet the requirements of the *General Disability and Rehabilitation Research Projects (DRRP) Requirements* priority that it published in a notice of final priorities in the **Federal Register** on April 28, 2006 (71 FR 25472).

Additional information on the DRRP program can be found at: *http://www.ed.gov/rschstat/research/pubs/resprogram.html#DRRP.*

Proposed Priorities

Priority 1—National Data and Statistical Center for the Burn Model Systems

Background

It is estimated that there are more than 1 million burn injuries in the United States each year. Approximately 700,000 of these burn injuries are treated in emergency departments annually, and 54,000 are severe enough to require hospitalization (Esselman *et al.*, 2006; American Burn Association, 2002).

In recent years, burn survivability has increased dramatically. This improvement in survival rates has brought rehabilitation issues to the forefront of care for burn survivors and led to increased demands for research-based knowledge about the post-acute experiences and needs of burn survivors (Esselman *et al.*, 2006).

NIDRR created the Burn Injury Rehabilitation Model Systems of Care (BMS) in 1994 to provide leadership in rehabilitation as a key component of exemplary burn care and to advance the research base of rehabilitation services for burn survivors. The centers funded under the BMS program (BMS Centers) establish and carry out projects that provide a coordinated system of care including emergency care, acute care management, comprehensive inpatient rehabilitation, and long-term interdisciplinary follow-up services. In addition, the BMS program carries out innovative projects for the delivery, demonstration, and evaluation of comprehensive medical, vocational, and other rehabilitation services to meet the wide range of needs of individuals with burn injury.

The BMS Centers have developed a longitudinal database that contains information on approximately 4,700 people injured since 1994 (BMS Database). The BMS Database is emerging as an important source of information about the characteristics and life course of individuals with burn injury. The BMS Database can be used to examine specific outcomes of burn injury. NIDRR seeks to continue and build upon this data source by funding a National Data and Statistical Center for the BMS (National BMS Data Center) that will maintain the BMS Database and improve the quality of information that is entered into it.

The BMS Database is a collaborative project in which all of the BMS Centers are required to participate. The data for the BMS Database are collected by the BMS Centers. The directors of the BMS Centers, including the National BMS Data Center, in consultation with NIDRR, determine the parameters of the BMS Database, including the number and type of variables to be examined, the criteria for including BMS patients in the database, and the frequency and timing of data collection.

The specifications of the BMS Database as it is currently implemented can be obtained from the BMS Database Coordination Center. The BMS Database Coordination Center may be contacted on the World Wide Web at *http://bms-dcc.uchsc.edu/.*

References

ABA National Burn Repository Report, 2002. *http://www.ameriburn.org/pub/NBR.htm.*

Esselman, P., Thombs, B., Fauerbach, J., Magyar-Russell, G., & Price, M. (2006). Burn State of the Science Review. In Press, American Journal of Physical Medicine and Rehabilitation.

Proposed Priority

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for the establishment of a National Data and Statistical Center for the Burn Model Systems (National BMS Data Center). The National BMS Data Center must advance medical rehabilitation by increasing the rigor and efficiency of scientific efforts to assess the experience of individuals with burn injury. To meet this priority, the National BMS Data Center's research and technical assistance must be designed to contribute to the following outcomes:

(a) Maintenance of a national longitudinal database (BMS Database)

for data submitted by each of the Burn Model Systems centers (BMS Centers). This database must provide for confidentiality, quality control, and data-retrieval capabilities, using cost-effective and user-friendly technology.

(b) High-quality, reliable data in the BMS Database. The National BMS Data Center must contribute to this outcome by providing training and technical assistance to BMS Centers on subject retention and data collection procedures, data entry methods, and appropriate use of study instruments, and by monitoring the quality of the data submitted by the BMS Centers.

(c) Rigorous research conducted by BMS Centers. To help in the achievement of this outcome, the National BMS Data Center must make statistical and other methodological consultation available for research projects that use the BMS Database, as well as center-specific and collaborative projects of the BMS program.

(d) Improved efficiency of the BMS Database operations. The National BMS Data Center must pursue strategies to achieve this outcome, such as collaborating with the National Data and Statistical Center for Traumatic Brain Injury Model Systems, the National Data and Statistical Center for Spinal Cord Injury Model Systems, and the Model Systems Knowledge Translation Center.

Priority 2—Burn Model System (BMS) Centers

Background

The American Burn Association (ABA) reported that about 54,000 Americans, one-third under age 20, are hospitalized for severe burn treatment every year. Of this number, 5,500 die (ABA National Burn Repository Report, 2002; *http://www.ameriburn.org/pub/NBR.htm*). Burn injury is a catastrophic event that can result in significant impairment of an individual's physical function. Relatively little has been written about physical rehabilitation of individuals following a burn injury (Sliwa *et al.*, 2005).

NIDRR created the Burn Injury Rehabilitation Model Systems of Care (BMS) in 1994 to provide leadership in rehabilitation as a key component of exemplary burn care and to advance the research base of rehabilitation services for burn survivors. The centers funded under the BMS program (BMS Centers) establish and carry out projects that provide a coordinated system of care including emergency care, acute care management, comprehensive inpatient rehabilitation, and long-term interdisciplinary follow-up services. In addition, the BMS program carries out innovative projects for the delivery, demonstration, and evaluation of comprehensive medical, vocational, and other rehabilitation services to meet the wide range of needs of individuals with burn injury.

Currently, four BMS Centers conduct research activities designed to improve rehabilitative and pharmacological interventions that can help optimize levels of community participation, employment, and overall quality of life for individuals with burn injury. Each center provides comprehensive rehabilitation services to individuals with burn injury and conducts burn research, including clinical research and the analysis of standardized data in collaboration with other related projects. The BMS Centers have developed a longitudinal database that contains information on over 3,046 adults and more than 1,602 children (BMS Database). Additional information on the BMS Database funded in 1998 can be found at *http://bms-dcc.uchsc.edu*).

Rehabilitation issues of concern to NIDRR include methods of measuring functional outcomes following burn injury. Recently, it is reported that the most widely used assessment of function following injury, the functional independence measure (FIM), may not be sufficient to measure functional outcomes following burn injuries (Sliwa *et al.*, 2005). NIDRR is also concerned about such issues as the effectiveness of specific rehabilitation interventions; psychosocial adjustment following burn injury; cognitive functioning following burn injury; and long-term outcomes following burn injury, including community integration and return to work.

In 2005, NIDRR conducted a review of its current BMS program. It is NIDRR's intent that, through funding of BMS Centers under the following proposed priority, the BMS program will serve as a platform for multi-site research that contributes to the formulation of practice guidelines to improve rehabilitation outcomes for individuals with burn injury.

References

ABA National Burn Repository Report, 2002. *http://www.ameriburn.org/pub/NBR.htm*.

Sliwa, J. A., Heinemann, A., Semik, P. (2005). Inpatient Rehabilitation Following Burn Injury: Patient Demographics and Functional Outcomes. Archives of Physical Medicine and Rehabilitation, 86: 1920–1923.

Raymond, I., Ancoli-Israel, S., Choiniere, M. (2004). Sleep Disturbances, Pain, and Analgesia in Adults Hospitalization for Burn Injuries. Sleep Medicine, 5(6): 551–559.

Proposed Priority

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for the funding of Burn Model Systems (BMS) centers (BMS Center) under the Disability and Rehabilitation Research Projects (DRRP) Program to conduct research that contributes to evidence-based rehabilitation interventions and clinical as well as practice guidelines that improve the lives of individuals with burn injury. Each BMS Center must—

(a) Contribute to continued assessment of long-term outcomes of burn injury by enrolling at least 30 subjects per year into the national longitudinal database for BMS data maintained by the National Data and Statistical Center for the BMS, following established protocols for the collection of enrollment and follow-up data on subjects;

(b) Contribute to improved outcomes for individuals with burn injury by proposing one collaborative research module project and participating in at least one collaborative research module project, which may range from pilot research to more extensive studies; and

(c) Contribute to improved long-term outcomes of individuals with burn injury by conducting no more than two site-specific research projects to test innovative approaches that contribute to rehabilitation interventions and evaluating burn injury outcomes in accordance with the focus areas identified in NIDRR's Final Long-Range Plan for FY 2005–2009 (Plan). Applicants who propose more than two site-specific projects will be disqualified.

In carrying out these activities, each BMS Center may select from the following research domains related to specific areas of the Plan: Health and function, employment, participation and community living, and technology for access and function.

In addition, each BMS Center must—

(1) Provide a multidisciplinary system of rehabilitation care specifically designed to meet the needs of individuals with burn injury. The system must encompass a continuum of care, including emergency medical services, acute care services, acute medical rehabilitation services, and post-acute services; and

(2) Coordinate with the NIDRR-funded Model Systems Knowledge Translation Center to provide scientific results and information for

dissemination to clinical and consumer audiences.

Priority 3—Inclusive Emergency Evacuation of Individuals With Disabilities

Background

Executive Order 13347, Individuals with Disabilities in Emergency Preparedness, directs the Federal Government to protect the safety and security of individuals with disabilities in disasters. Legal requirements related to nondiscrimination, architectural and communications access, technology, transportation, and other areas, such as those contained in the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.* (ADA) and relevant court decisions, apply in emergency situations as well.

Incorporating disability considerations into emergency evacuation, planning, preparation, and other activities is critical. Currently, there is insufficient evidence on demonstrating the most effective ways to ensure the safety of individuals with disabilities during emergency situations. For example, many individuals with disabilities rely on elevators, accessible transportation, and accessible communications, all of which can be compromised during disasters or other emergency situations (Executive Order 13347, Annual Report, 2005). Additional research is needed on approaches to evacuation that include the evacuation of individuals with disabilities (*e.g.*, physical, sensory, mental impairments).

A study by the National Council on Disability states that, while there is a wealth of anecdotal reports by the disability community about their experiences in disaster situations, there is scarce research related to people with disabilities in disaster planning, mitigation, preparedness, response, and recovery. This study also reports that: "a common theme emerging after 9/11 is there are virtually no empirical data on the safe and efficient evacuation of persons with disabilities in emergency planning" (National Council on Disability, 2005). Increased knowledge about devices, systems, plans, standards, and the incorporation of disability considerations into mainstream emergency management initiatives are needed in order to build system capacity and improve outcomes for individuals with disabilities in emergencies.

References

Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.*

National Council on Disability, Saving Lives: Including People with Disabilities in Emergency Planning. April 2005. Available at: *http://www.ncd.gov.*

U.S. Department of Homeland Security, Individuals with Disabilities in Emergency Preparedness: Executive Order 13347, Annual Report. July 2005. Available at: *http://www.dhs.gov/disabilitypreparednessicc.*

Proposed Priority

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for a Disability Rehabilitation Research Project (DRRP) on Inclusive Emergency Evacuation of Individuals with Disabilities to conduct research that contributes to the development of evidence-based emergency evacuation procedures to improve outcomes for individuals with disabilities. Under this priority, the DRRP must be designed to contribute to the following outcomes:

(a) Increased evidence-based knowledge about the inclusive evacuation of individuals with disabilities from one or more of the following areas: buildings, transportation systems, and geographic locations (*e.g.*, cities and States). The DRRP must contribute to this outcome by—(1) Synthesizing the current evidence base in one or more of the following areas: disability-related evacuation devices, plans, exercises, protocols, models, systems, networks, and standards; (2) identifying, for the areas identified in (a)(1) of this priority, the components and specifications needed for reliable, usable, accessible, safe, and effective evacuation of individuals with disabilities; and (3) assessing the degree to which the areas selected in (a)(1) of this priority contains the components or specifications identified in (a)(2) of this priority.

(b) Increased implementation of disability-related evacuation solutions within existing emergency management initiatives. The DRRP must contribute to this outcome by—(1) Examining barriers and facilitators to effective implementation of disability-related evacuation solutions within existing emergency management initiatives (including but not limited to communication between key stakeholders and attitudinal barriers); and (2) working with the emergency management community to propose solutions to the barriers identified in accordance with paragraph (b)(1) of this priority.

In addition to the above outcomes, applicants must:

- Define, in their applications, the parameters and units of analysis for their proposed activities. Applications must include a description of each of the following: (1) Type of evacuation (*i.e.*, evacuation from buildings, transportation systems, geographic locations such as cities or States); (2) target population (*e.g.*, with physical, sensory, mental impairments); and (3) type of response (*e.g.*, devices, plans, exercises, protocols, models, systems, networks, or standards).
- Demonstrate in their applications how they plan to implement a sustained, meaningful, and integrated collaboration throughout the project with key stakeholders, including but not limited to the following: (1) Disability and aging advocates, organizations, disability subject matter experts, and qualified individuals with disabilities; (2) fire engineers, homeland security and preparedness personnel, and other mainstream emergency management professionals and associations; (3) industry, standard-setting organizations, and other relevant stakeholders involved in standards development; (4) researchers (including researchers working on projects funded by NIDRR, other government agencies, and researchers in the private sector); and (5) relevant Federal agencies, including but not limited to those participating in the Interagency Coordinating Council on Emergency Preparedness and Individuals with Disabilities.

Priority 4—Traumatic Brain Injury Model Systems (TBIMS) Centers

Background

The Centers for Disease Control and Prevention (CDC) report that at least 1.4 million people sustain a traumatic brain injury (TBI) in the United States each year (Langlois, Rutland-Brown, & Thomas, 2004). Of these, approximately 50,000 die, 235,000 are hospitalized, and 1.1 million are treated and released from emergency departments. These estimates do not include those individuals who sustained a TBI and did not seek medical care or were seen only in private doctors' offices. The three leading causes of TBI are motor vehicle/traffic collisions, falls and assaults.

Disabilities resulting from TBI depend on several factors such as the severity and location of the injury, length of impaired consciousness, age and general health of the patient, and the intensity of rehabilitation services (Cifu, Kreutzer,

Kolakowsky-Hayner, Marwtiz & Englander, 2003; Dikmen, Machamer, Powell & Temkin, 2003; Sarajuuri, Kaipio, Koskinen, Niemela, Servo & Vilkki, 2005). Common disabilities resulting from TBI include problems with cognition, sensory processing, communication, and behavioral or mental health; and some TBI survivors develop long-term medical complications (National Institute of Neurological Disorders and Stroke, 2002). CDC reports that each year an estimated 80,000 to 90,000 Americans sustain TBI resulting in permanent disability. At least 5.3 million Americans have a long-term or lifelong need for help to perform activities of daily living as a result of TBI (Thurman, Alverson, Dunn, Guerrero, & Sniezek, 1999).

The Traumatic Brain Injury Model Systems (TBIMS) program was created by NIDRR in 1987 to demonstrate the benefits of a coordinated system of neurotrauma and rehabilitation care and to conduct innovative research on all aspects of care for those who sustain TBI. NIDRR currently funds 16 TBIMS centers throughout the United States. These centers provide comprehensive systems of brain injury care to individuals who sustain TBI and conduct TBI research, including clinical research and the analysis of standardized data in collaboration with other related projects. The mission of the TBIMS is to improve the lives of persons who experience TBI, and of their families and communities by creating and disseminating new knowledge about the natural course of TBI and rehabilitation treatment and outcomes following TBI.

For purposes of the TBIMS, TBI is defined as damage to brain tissue caused by an external mechanical force as evidenced by loss of consciousness or post-traumatic amnesia due to brain trauma or by objective neurological findings that can be reasonably attributed to TBI on physical examination or mental status examination. Both penetrating and non-penetrating wounds that fit this criteria are included, but, primary anoxic encephalopathy is not.

Each TBIMS center funded under this program should be designed to offer a multidisciplinary system for providing rehabilitation services specifically designed to meet the special needs of individuals with TBI. These services span the continuum of treatment from acute care through community re-entry. TBIMS centers engage in initiatives and new approaches and maintain close working relationships with other governmental and non profit institutions and organizations to coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among TBI researchers. As part of these cooperative efforts, TBIMS centers participate in collaborative research module projects, which range from pilot research to more extensive studies.

A committee consisting of the individual TBIMS project program directors has, since its inception, guided the TBIMS program. This group meets bi-annually in Washington, DC, and, in consultation with NIDRR, develops and oversees the policies of the TBIMS. NIDRR intends for the work of this group to continue.

Since 1989, the TBIMS centers have collected and contributed information on common data elements for a centralized TBIMS database, which is maintained through a NIDRR-funded grant for a National Data and Statistical Center for the TBIMS. (Additional information on the TBIMS database can be found at *http://tbindc.org*). The TBI National Data and Statistical Center for the TBIMS coordinates data collection, manages the TBIMS database, and provides statistical support to the model systems projects. To date, TBIMS centers have contributed 5,756 cases to the TBIMS database, with follow up data extending to 15 years post injury.

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Proposed Priority

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for Traumatic Brain Injury Model Systems (TBIMS) centers under the Disability and Rehabilitation Research Projects (DRRP) program to conduct research that contributes to evidence-based rehabilitation interventions which improve the lives of individuals with traumatic brain injury (TBI). Each TBIMS center must contribute to the following outcomes:

(a) Continued assessment of long-term outcomes of TBI by enrolling at least 35 subjects per year into the longitudinal portion of the TBIMS database maintained by the National Data and Statistical Center for the TBIMS, following established protocols for the collection of enrollment and follow-up data on subjects.

(b) Improved outcomes for individuals with TBI by proposing one collaborative research module project and participating in at least one collaborative research module project, which may range from pilot research to more extensive studies (At the beginning of the funding cycle, the TBIMS directors, in conjunction with NIDRR, will select specific modules for implementation from the approved applications).

(c) Improved long-term outcomes of individuals with TBI by conducting no more than two site-specific research projects to test innovative approaches that contribute to rehabilitation interventions and evaluating TBI outcomes in accordance with the focus areas identified in NIDRR's Long-Range Plan for FY 2005–2009. Applicants who propose more than two site-specific projects will be disqualified.

In carrying out each of these research activities, each TBIMS Center may select from the following research domains related to specific areas of the Plan: Health and Function, Employment, Participation and Community Living, and Technology for Access and Function.

In addition, each TBIMS Center must—

(1) Provide a multidisciplinary system of rehabilitation care specifically designed to meet the needs of individuals with TBI. The system must encompass a continuum of care, including emergency medical services, acute care services, acute medical rehabilitation services, and post-acute services; and

(2) Coordinate with the NIDRR-funded Model Systems Knowledge Translation Center to provide scientific results and information for dissemination to clinical and consumer audiences.

Rehabilitation Engineering Research Centers Program General Requirements of Rehabilitation Engineering Research Centers (RERCs)

RERCs carry out research or demonstration activities in support of the Rehabilitation Act of 1973, as amended, by—

- Developing and disseminating innovative methods of applying advanced technology, scientific achievement, and psychological and social knowledge to: (a) Solve rehabilitation problems and remove environmental barriers; and (b) study and evaluate new or emerging technologies, products, or environments and their effectiveness and benefits; or
- Demonstrating and disseminating: (a) Innovative models for the delivery of cost-effective rehabilitation technology services to rural and urban areas; and (b) other scientific research to assist in meeting the employment and independent living needs of individuals with severe disabilities; and
- Facilitating service delivery systems change through: (a) The development, evaluation, and dissemination of consumer-responsive and individual and family-centered innovative models for the delivery to both rural and urban areas of innovative cost-effective rehabilitation technology services; and (b) other scientific research to assist in meeting the employment and independence needs of individuals with severe disabilities.

Each RERC must be operated by or in collaboration with one or more institutions of higher education or one or more nonprofit organizations.

Each RERC must provide training opportunities, in conjunction with institutions of higher education and nonprofit organizations, to assist individuals, including individuals with disabilities, to become rehabilitation technology researchers and practitioners.

Additional information on the RERC program can be found at: *http://www.ed.gov/rschstat/research/pubs/index.html.*

Priorities 5, 6, 7, 8, 9, 10, and 11—Rehabilitation Engineering Research Centers (RERCs) for Spinal Cord Injury (Priority 5), Recreational Technologies and Exercise Physiology Benefiting Individuals With Disabilities (Priority 6), Translating Physiological Data Into Predictions for Functional Performance (Priority 7), Accessible Medical Instrumentation (Priority 8), Workplace Accommodations (Priority 9), Rehabilitation Robotics and Telemanipulation Systems (Priority 10), and Emergency Management Technologies (Priority 11)

Background

Individuals with disabilities regularly use products developed through rehabilitation and biomedical research to achieve and maintain maximum physical function, live independently, study and learn, and attain gainful employment. The range of engineering research encompasses not only assistive technology but also technology at the systems level (*e.g.*, the built environment, information and communication technologies, and transportation) and technology that interfaces between individuals and systems and is basic to community integration.

The NIDRR RERC program has been a major force in the development of technology to enhance independent function for individuals with disabilities. The RERCs are recognized as national centers of excellence in their respective areas and collectively represent the largest federally supported program responsible for advancing rehabilitation engineering research. For example, the RERC program was an early pioneer in the development of augmentative communication and has been at the forefront of prosthetics and orthotics research for both children and adults. RERCs have played a major role in the development of voluntary standards that the medical equipment and technology industries use when developing wheelchairs, wheelchair restraint systems, information technologies, and the World Wide Web. RERCs also have been a driving force in the development of universal design principles that can be applied to the built environment, information technology, and consumer products.

Advancements in basic biomedical science and technology have resulted in new opportunities to further enhance the lives of individuals with disabilities. Specifically, recent advances in biomaterials research, composite technologies, information and telecommunication technologies, nanotechnologies, micro electro mechanical systems (MEMS), sensor technologies, and the neurosciences provide a wealth of opportunities for individuals with disabilities and could be incorporated into research focused on disability and rehabilitation.

Through the following proposed priorities, NIDRR intends to fund RERCs that advance rehabilitation engineering in the following research areas: Spinal Cord Injury, Recreational Technologies and Exercise Physiology Benefiting People with Disabilities, Translating Physiological Data into Predictions for Functional Performance, Accessible Medical Instrumentation, Workplace Accommodations, Rehabilitation Robotics and Telemanipulation Systems, and Emergency Management Technologies.

Priority 5—RERC for Spinal Cord Injury

It is estimated that the number of Americans living with traumatic spinal cord injury (SCI) ranges from 222,000 to 285,000, with an incidence of approximately 11,000 new cases each year (Spinal Cord Injury: Facts and Figures at a Glance, 2004).

Technology plays a pivotal role in the lives of individuals with SCI, starting with the onset of injury and continuing into the individual's reintegration into community life (Cooper, 2004). The development of cutting-edge devices and the application of existing technologies such as integrated control systems, robotics, and neuroprosthetics can help individuals with SCI perform activities of daily living and work, and participate in their communities. These devices can enhance the mobility and function of users with SCI, which in turn, aids in the preservation of their overall health. Enhanced mobility, function and overall health are vital to the independence and quality of life of individuals with SCI. Accordingly, NIDRR seeks to fund an RERC that focuses on improving the quality of life of individuals with SCI and promotes health, rehabilitation, independence, and community participation.

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Priority 6—RERC for Recreational Technologies and Exercise Physiology Benefiting Individuals With Disabilities

Individuals with disabilities are generally less likely to be physically active than their non-disabled peers. However, regular physical activity, sports participation, and active recreation are important contributors to the prevention of disease, promotion of health, and maintenance of functional independence for all individuals, including individuals with disabilities. Several studies have demonstrated that many persons with a variety of disabilities benefit from increased levels of physical activity, as evidenced by alterations in various components of their physical fitness (Ada, Dean, Hall, Bampton, Crompton, 2003; Hicks, Martin, Ditor, Latimer, Craven, Bugaresti, McCartney, 2003; Husted, Pham, Hekking, Niederman, 1999; Romberg, Virtanen, Ruutiainen, Aunola, Karppi, Vaara, Surakka, Pohjolainen, Seppanen, 2004).

Accessible recreation requires more than ramps or automatic door openers at buildings containing recreational space. In a recreational facility, equipment and programs themselves contribute to an environment that promotes equal access or creates a barrier to pursuing recreational goals. Recreational equipment needs obvious and easy adjustability, variable range of motion, adequate surrounding space, and transferability (North Carolina Office on Disability and Health (2001)). Furthermore, recreational spaces are in need of accessible points of entry and accessible surfacing (North Carolina Office on Disability and Health (2001)).

Although modifications to recreational equipment have been made, such as swing away seats to allow use from a wheelchair or the addition of Braille instructions, these modifications are not universal and recreational equipment remains a primary barrier to physical activity participation (Rimmer, J.H., Riley, B., Wang, E., Rauworth, A. (2005)). Existing recreational technologies are in need of new features to increase access to and participation in recreational environments by individuals with disabilities. In addition, newly improved and novel recreational technologies need to be researched and tested to demonstrate the degree to which they can increase access to and participation in recreational environments by individuals with disabilities.

Accordingly, NIDRR seeks to fund an RERC that facilitates equitable access to, and safe use of, recreational equipment, facilities, and programs, and will reduce debilitating secondary conditions associated with disability and sedentary lifestyle.

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Priority 7—RERC for Translating Physiological Data Into Predictions for Functional Performance

The fields of biomedical and rehabilitation engineering have produced and applied a wide variety of instruments and devices to measure the physiological capacity of the human body. Many of these measurement tools, which examine parameters such as range of motion, force, gait, and electrophysiological features, have been applied by physiatrists and other allied professionals in research or practice in physical medicine and rehabilitation (Hesse, *et al.*, 2002; Koontz, *et al.*, 2005; Wimalartna, *et al.*, 2002).

To realize the potential for these physiological measures to shape clinical practices and services, biomedical engineers and rehabilitation clinicians must develop methods for translating physiological measures into predictions for functional performance. One example would be translating the results of a strength measure into a prognosis for the capacity to carry out a particular activity of daily living (ADL). NIDRR, therefore, seeks to fund an RERC that develops and evaluates models and methods to determine the relationship between physiological measures and the capacity to perform basic tasks among individuals with disabilities.

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Priority 8—RERC for Accessible Medical Instrumentation

The aim of "The Surgeon General's Call to Action to Improve the Health and Wellness of Persons with Disabilities" is for people with disabilities to achieve full access to disease prevention and health promotion services (The Surgeon General's Call To Action To Improve the Health and Wellness of Persons with Disabilities, 2005). Building upon the American with Disability Act of 1990, as amended, mandate of equal access to public accommodations and services, the second of four major goals within the Surgeon General's call-to-action is to: "Increase knowledge among health care professionals and provide them with tools to screen, diagnose, and treat the whole person with a disability with dignity."

Many medical devices in use today are not readily accessible to individuals with disabilities. For example, research examining the accessibility of mammography equipment found that inaccessible health care facilities and medical equipment make it less likely that women with disabilities will receive breast cancer screening (Nosek,

2000). In addition, accessibility issues are apparent with many other medical devices such as exam tables, x-ray equipment, rehabilitation equipment, and weight scales (Winters, *et al.*, 2005). Accordingly, NIDRR seeks to fund an RERC that facilitates equitable access to, and use of, healthcare facilities and equipment by people with disabilities.

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Priority 9—RERC for Workplace Accommodations

Individuals with disabilities experience low rates of employment and are less likely to be highly educated than are individuals without disabilities. Despite several national programs and policies that address this disparity, employment rates for people with disabilities have remained stable or declined in the past decade (2003 CPS Employment Rates). The lack of an accessible work environment may partially explain the decline in employment rates among individuals with disabilities.

Functional limitations in areas such as motor functioning, communication, sensation and perception, and cognitive functioning all present barriers to employment and maintenance of employment by people with disabilities (Williams, M., Sabata, D., Zolna, J. (2006)). Modifications in the work environment often remove or reduce these barriers. Examples of modifications include ramps, automatic door openers, alternate computer systems, voice output devices for persons with visual impairments, and customized desks and worktables. Evaluating the effectiveness of existing individualized accommodations and new technologies that can potentially be integrated into the design of work environments also may help to reduce employment barriers. Moreover, the need persists for more comprehensive empirical evidence about the human factors of the workplace environment and workplace technology used by people with disabilities. For example, workplace and task assessment using ergonomic, anthropometric, and kinematic analysis is needed for individuals with disabilities. In addition, new tools for assessing changes in function, skills, and abilities should be developed for individuals with disabilities (Dowler, D. L., Hirsch, A. E., Kittle, R. D., and Hendricks, D. J. (1996)) and technology resources should be systematically considered at all stages of an individual's employment and overall rehabilitation process (Langton, A.J., and Ramseur, H. (2001)). Accordingly, NIDRR seeks to fund an RERC that facilitates equitable access to, and use of, workplace equipment and facilities and otherwise promotes safety, independence, and active engagement in the workplace by individuals with disabilities.

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Priority 10—RERC for Rehabilitation Robotics and Telemanipulation Systems

Rehabilitation of physical impairment is labor intensive, often relying on one-on-one interactions and hands-on manipulations by physicians and therapists. Technologies are now available to help replicate these therapeutic manipulations so that individuals can practice therapy on their own in a clinic or possibly at home. Several studies suggest that appropriately designed robotic rehabilitation therapy may be used for the assessment and treatment of motor impairments (Lum, Burgar, Shor, Majmundar, & Van der Loos, 2002; Reinkensmeyer, Hogan, Krebs, Lehman, & Lum, 2000; Riener, Lunenburger, Jezernik, Anderschitz, Colombo, & Dietz, 2005).

By replicating therapy techniques that normally require one-on-one contact with clinicians, robotic manipulators could increase access to therapy, increase time spent in therapy, potentially reduce the cost of therapy, and possibly achieve better outcomes than traditional rehabilitation therapies. Accordingly, NIDRR seeks to fund an RERC that evaluates the efficacy of rehabilitation robotic therapies and researches and develops innovative technologies and techniques to improve the current state of the science and usability of rehabilitation robotic therapies for individuals with disabilities.

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Priority 11—RERC for Emergency Management Technologies

Although disasters and emergencies may have a greater impact on individuals with disabilities, their needs and concerns in the areas of emergency preparedness, response, and recovery are often overlooked (National Council on Disability, 2005). Many individuals with disabilities rely on elevators, accessible transportation, and accessible communications, all of which can be compromised during disasters or emergency situations (Executive Order 13347, Annual Report, 2005). The aim of Executive Order 13347 is to ensure that the Federal Government appropriately supports safety and security for individuals with disabilities. Accordingly, NIDRR seeks

to fund an RERC that researches, develops, and evaluates emergency management technologies and implementation plans to support the full inclusion of people with disabilities.

References

National Council on Disability, Saving Lives: Including People with Disabilities in Emergency Planning. April 2005. Available at: *http://www.ncd.gov/newsroom/publications/2005/saving_lives.htm#purpose.*

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Proposed Priorities

The Assistant Secretary for Special Education and Rehabilitative Services proposes seven priorities for the establishment of (a) An RERC for Spinal Cord Injury (Priority 5), (b) an RERC for Recreational Technologies and Exercise Physiology Benefiting Individuals with Disabilities (Priority 6), (c) an RERC for Translating Physiological Data into Predictions for Functional Performance (Priority 7), (d) an RERC for Accessible Medical Instrumentation (Priority 8), (e) an RERC for Workplace Accommodations (Priority 9), (f) an RERC for Rehabilitation Robotics and Telemanipulation Systems (Priority 10), and (g) an RERC for Emergency Management Technologies (Priority 11). Within its designated priority research area, each RERC will focus on innovative technological solutions, new knowledge, and concepts that will improve the lives of persons with disabilities.

(a) *RERC for Spinal Cord Injury (Priority 5).* Under this priority, the RERC must research, develop and evaluate innovative technologies and approaches that will improve the treatment, rehabilitation, employment, and reintegration into society of persons with spinal cord injury. This RERC must work collaboratively with the NIDRR-funded Spinal Cord Injury Model Systems Centers program;

(b) *RERC for Recreational Technologies and Exercise Physiology Benefiting Individuals With Disabilities (Priority 6).* Under this priority, the RERC must research, develop, and evaluate innovative technologies and strategies that will enhance recreational opportunities for individuals with disabilities and develop methods to enhance the physical performance of individuals with disabilities;

(c) *RERC for Translating Physiological Data into Predictions for Functional Performance (Priority 7).* Under this priority, the RERC must determine the physiological measurement tools that are available in a specific sub-specialty of rehabilitation. A sub-specialty may be based on underlying disabling condition (*e.g.*, spinal cord injury, and Parkinson's disease), or on specific sequelae that may be common to a wide variety of disabling conditions (*e.g.*, pain, spasticity). The RERC must then develop and evaluate models and methods for determining the relationships between basic physiological measurements and functional performance. These models and methods must take the characteristics of individuals and their environments into consideration when attempting to delineate these relationships, so that the results of this research are relevant to clinical practice and the real-world experiences of individuals with disabilities.

(d) *RERC for Accessible Medical Instrumentation (Priority 8).* Under this priority, the RERC must research, develop, and evaluate innovative methods and technologies to increase the usability and accessibility of diagnostic, therapeutic, and procedural healthcare equipment (*e.g.*, equipment used during medical examinations, and treatment) for individuals with disabilities. This includes developing methods and technologies that are useable and accessible for patients and health care providers with disabilities.

(e) *RERC for Workplace Accommodations (Priority 9).* Under this priority, the RERC must research, develop, and evaluate innovative technologies and implementation plans, devices, and systems to enhance the productivity of individuals with disabilities in the workplace. This RERC must emphasize the application of universal design concepts to improve the accessibility of the workplace and workplace tools for all workers.

(f) *RERC for Rehabilitation Robotics and Telemanipulation Systems (Priority 10).* Under this priority, the RERC must research, develop, and evaluate human-scale robots and telemanipulation systems that will provide or perform rehabilitation therapies and address the unique needs of individuals with disabilities.

(g) *RERC for Emergency Management Technologies (Priority 11).* Under this priority, the RERC must research, develop, and evaluate existing and innovative emergency management technologies to enhance emergency outcomes for individuals with disabilities. Areas of focus within this priority research area may include but are not limited to communications, transportation, evacuation, and other areas related to emergency preparedness, response, and recovery. In addition, this RERC must provide input and expertise into the development of standards to improve emergency management for individuals with disabilities. This RERC must work collaboratively with the NIDRR-funded Disability and Rehabilitation Research Project: Inclusive Emergency Evacuation of People with Disabilities.

Under each priority, the RERC must be designed to contribute to the following programmatic outcomes:

(1) Increased technical and scientific knowledge-base relevant to its designated priority research area. The RERC must contribute to this outcome by conducting high-quality, rigorous research and development projects.

(2) Innovative technologies, products, environments, performance guidelines, and monitoring and assessment tools as applicable to its designated priority research area. The RERC must contribute to this outcome by developing and testing these innovations.

(3) Improved research capacity in its designated priority research area. The RERC must contribute to this outcome by collaborating with the relevant industry, professional associations, and institutions of higher education.

(4) Improved focus on cutting edge developments in technologies within its designated priority research area. The RERC must contribute to this outcome by identifying and communicating with NIDRR and the field regarding trends and evolving product concepts related to its designated priority research area.

(5) Increased impact of research in the designated priority research area. The RERC must contribute to this outcome by providing technical assistance to public and private organizations, individuals with disabilities, and employers on policies, guidelines, and standards related to its designated priority research area.

In addition, under each priority, the RERC must—

- Have the capability to design, build, and test prototype devices and assist in the transfer of successful solutions to relevant production and service delivery settings;
- Evaluate the efficacy and safety of its new products, instrumentation, or assistive devices;
- Provide as part of its proposal and then implement a plan that describes how it will include, as appropriate, individuals with disabilities or their representatives in all phases of its activities, including research, development, training, dissemination, and evaluation;

• Provide as part of its proposal and then implement, in consultation with the NIDRR-funded National Center for the Dissemination of Disability Research (NCDDR), a plan to disseminate its research results to individuals with disabilities, their representatives, disability organizations, service providers, professional journals, manufacturers, and other interested parties;

• Develop and implement in the first year of the project period, in consultation with the NIDRR-funded RERC on Technology Transfer, a plan for ensuring that all new and improved technologies developed by the RERC are successfully transferred to the marketplace;

• Conduct a state-of-the-science conference on its designated priority research area in the fourth year of the project period and publish a comprehensive report on the final outcomes of the conference in the fifth year of the project period; and

• Coordinate research projects of mutual interest with relevant NIDRR-funded projects, as identified through consultation with the NIDRR project officer.

Executive Order 12866

This notice of proposed priorities 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 of proposed priorities are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice of proposed priorities, we have determined that the benefits of the proposed priorities justify the costs.

Summary of Potential Costs and Benefits

The benefits of the Disability and Rehabilitation Research Projects and Centers Programs have been well established over the years in that similar projects have been completed successfully. These proposed priorities will generate new knowledge and technologies through research, development, dissemination, utilization, and technical assistance projects.

Another benefit of these proposed priorities is that the establishment of new DRRPs and new RERCs will support the President's NFI and will improve the lives of persons with disabilities. The new DRRPs and RERCs will generate, disseminate, and promote the use of new information that will improve the options for individuals with disabilities to perform regular activities in the community.

Intergovernmental Review

This program is not subject to Executive Order 12372 and the regulations in 34 part 79.

Applicable Program Regulations: 34 CFR part 350.

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(Catalog of Federal Domestic Assistance Numbers 84.133A Disability Rehabilitation Research Projects and 84.133E Rehabilitation Engineering Research Centers Program)

Program Authority: 29 U.S.C. 762(g), 764(a), 764(b)(2), and 764(b)(3).

Dated: September 13, 2006.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

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Part III

The President

Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 8049 of September 14, 2006

National Hispanic Heritage Month, 2006

By the President of the United States of America

A Proclamation

Americans are a diverse people, yet we are bound by common principles that teach us what it means to be American citizens. During National Hispanic Heritage Month, we recognize the many contributions of Hispanic Americans to our country.

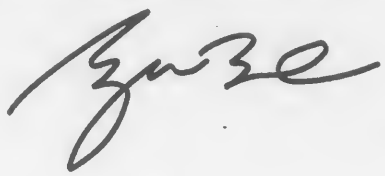
Through hard work, faith in God, and a deep love of family, Hispanic Americans have pursued their dreams and contributed to the strength and vitality of our Nation. They have enriched the American experience and excelled in business, law, politics, education, community service, the arts, science, and many other fields. Hispanic entrepreneurs are also helping build a better, more hopeful future for all by creating jobs across our country. The number of Hispanic-owned businesses is growing at three times the national rate, and increasing numbers of Hispanic Americans own their own homes. We continue to benefit from a rich Hispanic culture and we are a stronger country because of the talent and creativity of the many Hispanic Americans who have shaped our society.

Throughout our history, Hispanic Americans have also shown their devotion to our country in their military service. Citizens of Hispanic descent have fought in every war since our founding and have taken their rightful place as heroes in our Nation's history. Today, Americans of Hispanic descent are serving in our Armed Forces with courage and honor, and their efforts are helping make America more secure and bringing freedom to people around the world.

As we celebrate National Hispanic Heritage Month, we applaud the accomplishments of Hispanic Americans and recognize the contributions they make to our great land. To honor the achievements of Hispanic Americans, the Congress, by Public Law 100–402, as amended, has authorized and requested the President to issue annually a proclamation designating September 15 through October 15 as "National Hispanic Heritage Month."

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 the laws of the United States, do hereby proclaim September 15 through October 15, 2006, as National Hispanic Heritage Month. I call upon public officials, educators, librarians, and all the people of the United States to observe this month with appropriate ceremonies, activities, and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of September, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.



[FR Doc. 06–07858
Filed 9–18–06; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 8050 of September 14, 2006

Constitution Day and Citizenship Day, Constitution Week, 2006

By the President of the United States of America

A Proclamation

Americans are united by the principles embodied in the United States Constitution. On Constitution Day and Citizenship Day and during Constitution Week, we celebrate the establishment of the United States Constitution and honor the Framers of this groundbreaking document.

In 1787, the Framers of the Constitution met in Philadelphia and drafted a document that continues to be the foundation of our Nation's identity. The Constitution established the enduring governmental framework in which our free society has flourished for more than two centuries, and it is a testament to the wisdom and foresight of our Founders.

America is grateful to those who have worked to defend the Constitution and promote its ideals. During this observance, we also recognize the profound impact our Constitution has on the everyday lives of our citizens, and we call upon all Americans to help uphold its values of a free and just society.

In celebration of the signing of the Constitution and in recognition of the Americans who strive to uphold the duties and responsibilities of citizenship, the Congress, by joint resolution of February 29, 1952 (36 U.S.C. 106, as amended), designated September 17 as "Constitution Day and Citizenship Day," and by joint resolution of August 2, 1956 (36 U.S.C. 108, as amended), requested that the President proclaim the week beginning September 17 and ending September 23 of each year as "Constitution Week."

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim September 17, 2006, as Constitution Day and Citizenship Day, and September 17 through September 23, 2006, as Constitution Week. I encourage Federal, State, and local officials, as well as leaders of civic, social, and educational organizations, to conduct ceremonies and programs that celebrate our Constitution and reaffirm our rights and responsibilities as citizens of our great Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of September, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

[FR Doc. 06–07859
Filed 9–18–06; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 8051 of September 14, 2006

National POW/MIA Recognition Day, 2006

By the President of the United States of America

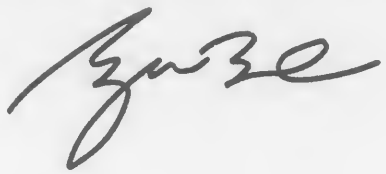
A Proclamation

As a Nation, we look to our service men and women as examples of courage and sacrifice. When our country and the world have needed brave Americans to advance the cause of freedom, our men and women in uniform have proudly stepped forward and selflessly endured hardships to defend liberty. We are grateful to all who have served, and on National POW/MIA Recognition Day, we give special honor to the extraordinary patriots who have been prisoners of war and to those who are still missing in action. We take inspiration from their valor and loyalty and will not rest until we have accounted for them all.

On National POW/MIA Recognition Day, the National League of Families POW/MIA flag is flown over the White House, the Capitol, the Departments of State, Defense, and Veterans Affairs, the Vietnam Veterans Memorial, Korean War Veterans Memorial, World War II Memorial, U.S. military installations, national cemeteries, and other locations across our country. The POW/MIA flag is a symbol of our Nation's resolve never to forget the service and great sacrifice of the heroes who have carried out liberty's urgent and noble mission, even at the cost of their own freedom. On this day, we express our deep appreciation to each of our Soldiers, Sailors, Airmen, and Marines and our enduring commitment to achieve the fullest possible accounting for all of our men and women in uniform who have been prisoners of war or are missing in action.

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 Friday, September 15, 2006, as National POW/MIA Recognition Day. I call upon the people of the United States to join me in paying solemn tribute to all former American prisoners of war and those missing in action who valiantly served our great country. I call upon Federal, State, and local government officials and private organizations to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of September, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.



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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 "PLUS" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html.*

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H.R. 4646/P.L. 109–273

To designate the facility of the United States Postal Service located at 7320 Reseda Boulevard in Reseda, California, as the "Coach John

Wooden Post Office Building". (Aug. 17, 2006; 120 Stat. 773)

H.R. 4811/P.L. 109–274

To designate the facility of the United States Postal Service located at 215 West Industrial Park Road in Harrison, Arkansas, as the "John Paul Hammerschmidt Post Office Building". (Aug. 17, 2006; 120 Stat. 774)

H.R. 4962/P.L. 109–275

To designate the facility of the United States Postal Service located at 100 Pitcher Street in Utica, New York, as the "Captain George A. Wood Post Office Building". (Aug. 17, 2006; 120 Stat. 775)

H.R. 5104/P.L. 109–276

To designate the facility of the United States Postal Service located at 1750 16th Street South in St. Petersburg, Florida, as the "Morris W. Milton Post Office". (Aug. 17, 2006; 120 Stat. 776)

H.R. 5107/P.L. 109–277

To designate the facility of the United States Postal Service located at 1400 West Jordan Street in Pensacola, Florida, as the "Earl D. Hutto Post Office Building". (Aug. 17, 2006; 120 Stat. 777)

H.R. 5169/P.L. 109–278

To designate the facility of the United States Postal Service located at 1310 Highway 64 NW. in Ramsey, Indiana, as the "Wilfred Edward 'Cousin Willie' Sieg, Sr. Post Office". (Aug. 17, 2006; 120 Stat. 778)

H.R. 5540/P.L. 109–279

To designate the facility of the United States Postal Service located at 217 Southeast 2nd Street in Dimmitt, Texas, as the "Sergeant Jacob Dan Dones Post Office". (Aug. 17, 2006; 120 Stat. 779)

H.R. 4/P.L. 109–280

Pension Protection Act of 2006 (Aug. 17, 2006; 120 Stat. 780)

Last List August 17, 2006

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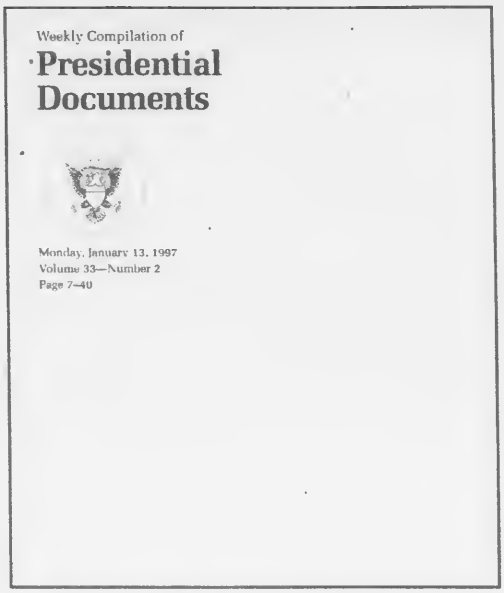

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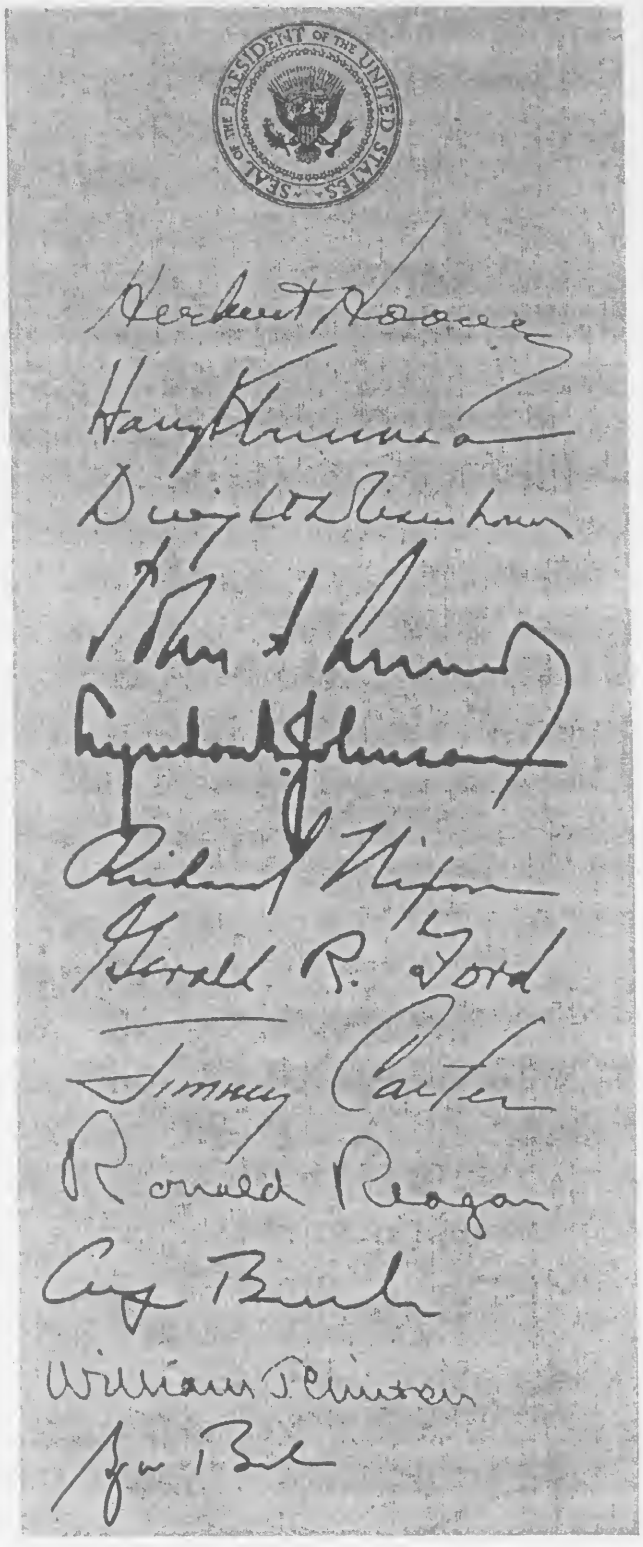

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