3–14–07 Wednesday
Vol. 72 No. 49 Mar. 14, 2007

Federal Register

United States
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U.S. Government Printing Office
(ISSN 0097-6326)

Federal Register

3–14–07 Wednesday
Vol. 72 No. 49 Mar. 14, 2007

Pages 11773–12030

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 56 and 70

[Docket No. AMS 2006–0142; PY–06–002]

RIN 0581–AC64

Increase in Fees and Charges for Egg, Poultry, and Rabbit Grading

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is increasing the fees and charges for Federal voluntary egg, poultry, and rabbit grading, certification, and audit services, and establishing a separate billing rate for the audit services. The fees and charges are being increased to cover the increase in salaries of Federal employees, salary increases of State employees cooperatively utilized in administering the programs, and other increased Agency costs. The AMS is required to collect fees from users of these services to cover the costs of services rendered.

DATES: *Effective Date:* April 1, 2007.

FOR FURTHER INFORMATION CONTACT: David Bowden, Jr., Chief, USDA, AMS, PY, Standards, Promotion and Technology Branch, (202) 690–3148.

SUPPLEMENTARY INFORMATION:

Background and Proposed Changes

The Agricultural Marketing Act of 1946 (AMA), as amended, (7 U.S.C. 1621, *et seq.*), gives AMS the authority to provide services so that agricultural products may be marketed to their best advantage, that global marketing and trade may be facilitated, and that consumers may be able to ascertain characteristics involved in the production and processing of products and obtain the quality of product they desire. The AMA also provides for the collection of fees from users of these services that are reasonable and cover the cost of providing services. Voluntary grading and certification of eggs, poultry, and rabbits and verification and conformance audits, fall within this authorization.

A recent review determined that the existing fee schedule, effective September 25, 2005, will not generate sufficient revenue to cover program costs while maintaining an adequate trust fund reserve balance in FY 2007. Revenue in FY 2005 was $30.1 million while expenses were $33.8 million. After factoring in investment income, the result was a loss of $3.4 million. This loss reduced the trust fund reserve balance to $12.4 million. FY 2006 revenue is currently projected at $33.8 million and expenses in FY 2006 are projected at $34.8 million, which will reduce the trust fund reserve balance to $12.0 million. However, prior-year adjustments and projected investment income will increase the projected end-of-year trust fund reserve balance to $13.3 million. Without a fee increase, FY 2007 revenue is projected to be $33.8 million. Expenses are projected to be $36.6 million. After factoring in investment income, this loss would leave a reserve of $11.1 million, which is below the required minimum level.[1] With a fee increase, FY 2007 revenue is projected at $35.1 million.

Over $1 million in cost cutting measures will be taken by the Agency in FY 2006 and FY 2007 to maintain acceptable trust fund reserve levels. These cost reductions will include reorganization of field offices and not filling targeted vacancies. The fee increase in conjunction with cost reductions will result in trust fund reserve balances that would be maintained at the required minimum level.

The review also included an in-depth analysis of expenses specifically related to auditing services. The audit program, initiated in 1999, was developed to provide industry, as well as domestic and foreign governmental entities, with verification of quality management systems, label claims, and other industry-developed standards.

The number of audits has grown from five in FY 1999 to 524 in FY 2005. They are presently conducted by 30 full-time auditors. Audit fees are based on the approved hourly nonresident fee rate established for egg, poultry, and rabbit grading and certification services provided by the Agency pursuant to 7 CFR parts 56 and 70. The review revealed that this rate did not sufficiently cover the cost of providing audit services, primarily due to the use of higher-salaried employees to perform audits. Consequently, a separate billing rate for performing audits has been established.

The nonresident fee rate for audits was developed using the salary and fringe benefit information for Agricultural Commodity Graders stationed in the field, the employees typically assigned to perform fee grading service. Most of these employees are full-time at the GS–8/9 pay grade classifications. However, due to the complexity of planning, performing, and interpreting the results of assessments, audits are typically performed by employees at the GS–11/12 pay grade.

Upon considering all audit operational expenses, the Agency determined that the actual cost of audit services, excluding travel costs, to be $82.16 per hour. Included in the analysis were employee salaries and benefits, overhead; total revenue hours available, and other anticipated costs such as federally mandated pay raises through FY 2007, rent, communications, utilities, contractual services, supplies, and equipment. Also, this action adds to the regulations a definition of auditing services and description of such services as appropriate.

The Agency considered alternatives to creating a separate user-fee for audit services, but found that none were sufficient. Maintaining the same user-fee for audit services that is currently used for conventional egg, poultry, and rabbit grading and certification services would not sufficiently cover the cost of providing audit services. Another option was to terminate all audit services, which would adversely affect producers, businesses, and consumers who desire audit services and those entities with already-established programs.

[1] The required minimum level for the trust fund reserve is equal to four months of the revenue projected from collecting inspection fees during that fiscal year. With FY 2007 revenue projected to be $33.8 million, four months of the revenue in FY2007 equals $11.3 million. Therefore a reserve of $11.1 million would fall short of the required minimum level.

Employee salaries and benefits account for approximately 85 percent of the total operating budget. The last general and locality salary increase for Federal employees became effective on January 1, 2006, and it materially affected program costs. Projected cost estimates for that increase were based on a salary increase of 2.2 percent; however, the increase was actually 3.89 to 5.35 percent, depending on locality. The average increase in salary over the past five years has been 3.71 percent and was used for the projected salary increase for January 2007. Also, from October 2005 through September 2007, salaries and fringe benefits of federally-licensed State employees will increase by about 6.0 percent.

The following table compares current and proposed fees and charges and shows the new audit fees. To offset projected cost increases, the hourly resident and nonresident rate would be increased by approximately 7.0 percent and the fee rate would also be increased by approximately 7.0 percent. The hourly rate for resident and nonresident service covers graders' salaries and benefits. The hourly rate for fee service covers graders' salaries and benefits, plus the cost of travel and supervision. The minimum monthly administrative volume charge for resident shell egg, poultry, and rabbit grading would be changed to $275. The billing rates for auditing services would be $82.16 for regular hours and $102.84 for weekend and holiday hours.

Service	Current	Proposed
Resident Service (Egg, Poultry, and Rabbit Grading)		
Inauguration of service	310	310
Hourly charges:		
Regular hours	36.36	39.04
Administrative charges—Poultry grading:		
Per pound of poultry	.00039	.00043
Minimum per month	260	275
Maximum per month	2,875	3,075
Administrative charges—Shell egg grading:		
Per 30-dozen case of shell eggs	.051	.053
Minimum per month	260	275
Maximum per month	2,875	3,075
Administrative charges—Rabbit grading:		
Based on 25% of grader's salary, minimum per month	260	275
Nonresident Service (Egg and Poultry Grading)		
Hourly charges:		
Regular hours	36.36	39.04
Administrative charges:		
Based on 25% of grader's salary, minimum per month	260	275
Nonresident Fee and Appeal Service (Egg, Poultry, and Rabbit Grading)		
Hourly charges:		
Regular hours	65.00	69.68
Weekend and holiday hours	75.12	80.12
Audit Fee (Verification of Standards and Quality Systems)		
Hourly charges:		
Regular hours	65.00	82.16
Weekend and holiday hours	75.12	102.84

Comments

Based on the analysis of costs to provide these services, a proposed rule to increase the fees for these services was published in the **Federal Register** (71 FR 59028) on October 6, 2006. Comments on the proposed rule were solicited from interested parties until November 6. One comment was received which was outside of the scope of the rulemaking.

Executive Order 12866

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

Regulatory Flexibility Act

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA)(5 U.S.C. 601 *et seq.*), the AMS has considered the economic impact of this action on small entities. It is determined that its provisions would not have a significant economic impact on a substantial number of small entities.

There are about 378 users of Poultry Programs' grading services. These official plants can pack eggs, poultry, and rabbits in packages bearing the USDA grade shield when AMS graders are present to certify that the products meet the grade requirements as labeled. Many of these users are small entities under the criteria established by the Small Business Administration (13 CFR 121.201). These entities are under no obligation to use grading services as authorized under the Agricultural Marketing Act of 1946.

The AMS regularly reviews its user fee financed programs to determine if fees are adequate and if costs are reasonable. A recent review determined that the existing fee schedule, effective September 25, 2005, will not generate sufficient revenue to cover program costs while maintaining an adequate reserve balance in FY 2007. Costs in FY 2007 are projected at $36.6 million. Without a fee increase, FY 2007 revenue is projected at $33.8 million and the trust fund reserve balance would be below minimum required levels. With a fee increase, FY 2007 revenues are projected at $35.1 million. Strategic

cost-cutting measures will be taken by the program to ensure sufficient trust fund levels. Cost reductions will include reorganization of field offices and not filling targeted vacancies.

This action will raise the fees charged to users of grading and auditing services. Also, this action adds to the regulations a definition of auditing services and description of such services as appropriate. The AMS estimates that, overall, this rule will yield an additional $1.3 million during FY 2007. The hourly rate for resident and nonresident service will also increase by approximately 7.0 percent and the fee rate will also increase by approximately 7.0 percent. The impact of these rate changes in a poultry plant will not be substantial and will range from about $0.00013 to $0.0011 per pound of poultry handled. In a shell egg plant, the range will be $0.00022 to $0.00224 per dozen eggs handled.

Civil Justice Reform

This action has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Paperwork Reduction

The information collection requirements that appear in the sections to be amended by this action have been previously approved by OMB and assigned OMB Control Numbers under the Paperwork Reduction Act (44 U.S.C. Chapter 35) as follows: § 56.52(a)(4)—No. 0581–0128; and § 70.77(a)(4)—No. 0581–0127.

Pursuant to 5 U.S.C. 533, it is found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register**. The revised fees need to be implemented on an expedited basis in order to avoid further financial losses in the grading program. The effective date of the fee increase, is April 1, 2007.

List of Subjects

7 CFR Part 56

Eggs and egg products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

7 CFR Part 70

Food grades and standards, Food labeling, Poultry and poultry products, Rabbits and rabbit products, Reporting and recordkeeping requirements.

■ For reasons set forth in the preamble, Title 7, Code of Federal Regulations, parts 56 and 70 is amended as follows:

PART 56—VOLUNTARY GRADING OF SHELL EGGS

■ 1. The authority citation for part 56 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

■ 2. Section 56.1 is amended by adding "Auditing Services" to read as follows:

§ 56.1 Meaning of words of words and terms.

* * * * *

Auditing services means the act of providing independent verification of written quality assurance and value added standards for production, processing and distribution of shell eggs. Auditing services are performed by graders authorized by the Secretary to perform such audits and the service provided will be in accordance with the provisions of this part for grading services, as appropriate.

* * * * *

■ 3. In § 56.28,the section heading is revised and paragraph (d) is added to read as follows:

§ 56.28 Types of service.

* * * * *

(d) *Auditing service.* This type of service is performed when an applicant requests independent verification of written quality assurance and value added standards for production, processing, and distribution of shell eggs. Charges or fees are based on time, travel, and expenses needed to perform the work.

■ 4. Section 56.46 is amended by:

■ A. Removing in paragraph (b), "$65.00" and adding "$69.68" in its place.

■ B. Removing in paragraph (c), "$75.12" and adding "$80.12" in its place.

■ C. Adding new paragraphs (d) and (e) to read as follows:

§ 56.46 On a fee basis.

* * * * *

(d) Fees for audit services will be based on the time and expenses required to perform the audit. The hourly charge shall be $82.16 and shall include the time actually required to perform the audit, waiting time, travel time, travel expenses and any clerical costs involved in issuing an audit report.

(e) Audit services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $102.84 per hour. Information on legal holidays is available from the Supervisor.

■ 5. Section 56.52 is amended by removing in paragraph (a)(4), "$0.051" and adding "$0.053" in its place, removing "$260" and adding "$275" in its place, and removing "$2,875" and adding "$3,075" in its place.

PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS

■ 6. The authority citation for part 70 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

■ 7. Section 70.1 is amended by revising the section heading and by adding "Auditing Services" to read as follows:

§ 70.1 Definitions.

* * * * *

Auditing services means the act of providing independent verification of written quality assurance and value added standards for production, processing and distribution of poultry and rabbits. Auditing services are performed by graders authorized by the Secretary to perform such audits and the service provided will be in accordance with the provisions of this part for grading services, as appropriate.

* * * * *

■ 8. In § 70.4 the section heading is revised, and paragraph (c) is added to read as follows:

§ 70.4 Services available.

* * * * *

(c) *Auditing service.* This type of service is performed when an applicant requests independent verification of written quality assurance and value added standards for production, processing, and distribution of poultry and rabbits. Charges or fees are based on time, travel, and expenses needed to perform the work.

■ 9. Section 70.71 is amended by:

■ A. Removing in paragraph (b) "$65.00" and adding "$69.68" in its place.

■ B. Removing in paragraph (c) "$75.12" and adding "$80.12" in its place.

■ C. Adding new paragraphs (d) and (e) to read as follows:

§ 70.71 On a fee basis.

* * * * *

(d) Fees for audit services will be based on the time and expenses required to perform the audit. The hourly charge shall be $82.16 and shall include the time actually required to

perform the audit, waiting time, travel time, travel expenses and any clerical costs involved in issuing a certificate.

(e) Audit services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $102.84 per hour. Information on legal holidays is available from the Supervisor.

■ 10. Section 70.77 is amended by removing in paragraph (a)(4) "$0.00039" and adding "$0.00043" in its place, removing "$260" and adding "$275" in its place, and removing "$2,875" and adding "$3.075" in its place.

Dated: March 9, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–4657 Filed 3–13–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

Food Labeling

CFR Correction

In Title 21 of the Code of Federal Regulations, Parts 100 to 169, revised as of April 1, 2006, on page 18, in § 101.4, the introductory text of paragraph (h) is corrected by revising the phrase "or at the Office of the Federal Register, 800 N. Capitol St. NW., suite 700, Washington, DC." to read: "or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*"

[FR Doc. 07–55502 Filed 3–13–07; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD07–06–237]

RIN 1625–AA09

Drawbridge Operation Regulations; Outer Clam Bay Boardwalk Bridge, Mile 0.3, Near North Naples, Collier County, FL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating regulation governing the operation of the Outer Clam Bay Boardwalk Drawbridge, mile 0.3, near North Naples in Collier County, Florida. The rule will require the drawbridge to open on signal, with at least 30 minutes advance notice. This rule will allow the unrestricted movement of pedestrian traffic while providing for the reasonable needs of navigation.

DATES: This rule is effective April 13, 2007.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD07–06–237) and are available for inspection or copying at Commander (dpb), Seventh Coast Guard District, 909 SE. 1st Avenue, Room 432, Miami, Florida 33131–3050 between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Seventh Coast Guard District, Bridge Branch, telephone number 305–415–6743.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On November 17, 2006, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Outer Clam Bay Boardwalk Bridge, Mile 0.3, Near North Naples, Collier County, FL in the **Federal Register** (71 FR 66895). We received no comments on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

The current regulation of the Outer Clam Bay Boardwalk Drawbridge, mile 0.3, near North Naples, at Collier County, published in 33 CFR 117.323 requires the drawspan to open on signal between 9 a.m. and 5 p.m., if at least one-hour advance notice is given. Between 5 p.m. and 9 a.m., the draw is left in the open position.

On October 19, 2006, the officials of Collier County requested that the Coast Guard review the existing regulations governing the operation of the Outer Clam Bay Boardwalk Drawbridge because they contended that the regulation did not meet the needs of pedestrians utilizing the boardwalk and drawspan.

County records indicated that the owner has had one request for an opening since 1986 and the vessel did not show up for the requested opening. Night time vessel traffic is negligible. The boardwalk provides access to a recreational beachfront area 24 hours a day. Leaving the drawspan in the open position prevents beachgoers from accessing the recreational area between the hours of 5 p.m. and 9 a.m.

Discussion of Comments and Changes

The Coast Guard received no responses to the Notice of Proposed Rulemaking. The rule will provide access to the recreational beachfront area 24 hours a day while meeting the reasonable needs of navigation.

Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary: This rule modifies the existing bridge schedule to allow pedestrian and vehicle traffic unrestricted access to the recreation area while providing for the reasonable needs of navigation.

Small Entities

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

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

This rule would affect the following entities, some of which may be small entities: The owners or operators of vessels needing to transit the Outer Clam Bay Boardwalk Drawbridge. The rule would not have a significant economic impact on a substantial number of small entities because the rule provides for openings to vessel traffic.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in

understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, and Department of Homeland Security Management Directive 5100.1, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (32)(e), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

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

■ 2. Revise § 117.323 to read as follows:

§ 117.323 Outer Clam Bay

The drawspan of the Outer Clam Bay Boardwalk Drawbridge shall open on signal if at least 30 minutes advance notice is given.

Dated: March 2, 2007.

D.W. Kunkel,

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

[FR Doc. E7–4590 Filed 3–13–07; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2005–0312; FRL–8113–6]

Prothioconazole; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for combined residues of prothioconazole and prothioconazole-

desthio calculated as parent in or on barley, grain/hay/straw; grain, aspirated grain fractions; pea and bean, dried shelled, except soybeans, subgroup 6C; peanut; peanut hay; rapeseed, seed; wheat, grain/forage/hay/straw; and for combined residues of prothioconazole, prothioconazole-desthio and conjugates that can be converted to these two compounds by acid hydrolysis, calculated as parent in or on cattle, meat/meat byproducts/fat/milk; poultry, liver; goat, fat/meat/meat byproducts; hog, meat byproducts; horse, fat/meat/meat byproducts; sheep, fat/meat/meat byproducts. Bayer CropScience requested tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

DATES: This regulation is effective March 14, 2007. Objections and requests for hearings must be received on or before May 14, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2005–0312. To access the electronic docket, go to *http://www.regulations.gov*, select "Advanced Search," then "Docket Search." Insert the docket ID number where indicated and select the "Submit" button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Tony Kish, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9443; e-mail address: *kish.tony@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop production (NAICS code 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

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

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, as amended by FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2005–0312 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before May 14, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2005–0312, by one of the following methods:

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

II. Background and Statutory Findings

In the **Federal Register** of November 30, 2005 (70 FR 71831) (FRL–7747–6), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 4F6830) by Bayer CropScience, 2 T.W. Alexander Dr., Research Triangle Park, NC 27709. The petition requested that 40 CFR part 180 be amended by establishing tolerances for residues of the fungicide prothioconazole, 2-[2-(1-chlorocyclopropyl)-3-(2-chlorophenyl)-2-hydroxypropyl]-1,2-dihydro-3*H*-1,2,4-triazole-3-thione, in or on barley, grain at 0.2 parts per million (ppm); barley, hay at 7.0 ppm; barley, straw at 2.0 ppm; barley, pearled at 0.2 ppm; barley, bran at 0.4 ppm; black mustard, seed at

0.1 ppm; borage, seed at 0.1 ppm; canola, seed at 0.1 ppm; crambe, seed at 0.1 ppm; field mustard, seed at 0.1 ppm; flax, seed at 0.1 ppm; grain, aspirated fractions at 13.0 ppm; Indian mustard, seed at 0.1 ppm; Indian rapeseed 0.1 ppm; pea and bean, dried shelled (except soybeans) at 0.8; peanut, nutmeat at 0.02 ppm; peanut, hay at 5.0 ppm; peanut, meal at 0.3 ppm; rapeseed, seed at 0.1 ppm; rice, grain at 0.25 ppm; rice, straw at 1.5 ppm; rice, hulls at 1.0 ppm; wheat, grain at 0.06 ppm; wheat, bran at 1.5 ppm; wheat, forage at 7.0 ppm; wheat, germ at 0.15 ppm; wheat, hay at 4.0 ppm; wheat, straw at 2.3 ppm and for combined residues of prothioconazole, its desthio and 4-hydroxy metabolites, and conjugates of each in cattle, meat at 0.01 ppm; cattle, meat byproducts at 1.2 ppm; cattle, fat at 0.1 ppm; and milk at 0.006 ppm. That notice included a summary of the petition prepared by Bayer CropScience, the registrant. Comments were received on the notice of filing. EPA's response to these comments is discussed in Unit IV.C.

For the reasons stated in Unit V., EPA is not establishing at this time the following petitioned-for tolerances: Rice; black mustard; borage; flax; Indian mustard; barley, pearled barley; barley, bran; canola; crambe; field mustard; Indian rapeseed; peanut, meal; wheat, bran; and wheat, germ.

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

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of FFDCA and a complete description of the risk assessment process, see *http://www.epa.gov/oppfead1/trac/science.*

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2) of FFDCA, for a tolerance for combined residues of prothioconazole and prothioconazole-desthio, calculated as parent in or on barley, grain at 0.35 ppm; barley, hay at 7.0 ppm; barley, straw at 4.0 ppm; grain, aspirated grain fractions at 11.0 ppm; pea and bean, dried shelled, except soybeans, subgroup 6C at 0.9; peanut at 0.02 ppm; peanut, hay at 6.0 ppm; rapeseed, seed at 0.15 ppm; wheat, grain at 0.07 ppm; wheat, forage at 6.0 ppm; wheat, hay at 4.5 ppm; wheat, straw at 5.0 ppm and for combined residues of prothioconazole, prothioconazole-desthio, and conjugates that can be converted to these two compounds by acid hydrolysis, calculated as parent in or on cattle, meat at 0.02 ppm; cattle, meat byproducts at 0.2 ppm; cattle, fat at 0.1 ppm; goat, fat at 0.1 ppm; goat, meat at 0.02 ppm; goat, meat byproducts at 0.2 ppm; hog, meat byproducts at 0.05 ppm; horse, fat at 0.1 ppm; horse, meat at 0.02 ppm; horse, meat byproducts at 0.2 ppm; milk at 0.02 ppm; poultry, liver at 0.02 ppm; sheep, fat at 0.1 ppm; sheep, meat at 0.02 ppm and sheep, meat byproducts at 0.2 ppm.

EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the toxic effects caused by prothioconazole as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov.*

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, the dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify non-threshold hazards such as cancer. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk, and estimates risk in terms of the probability of occurrence of additional cancer cases. More information can be found on the general principles EPA uses in risk characterization at:

1. *http://www.epa.gov/oppfead1/trac/science.*
2. *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*
3. *http://www.epa.gov/pesticides/trac/science/aggregate/pdf.*

Both prothioconazole and prothioconazole-desthio have low acute toxicities by oral, dermal, and inhalation routes. Neither compound is a dermal sensitizer, nor a skin or eye irritant.

Subchronic toxicity studies show that the target organs at the LOAEL include the liver, kidney, urinary bladder, thyroid, and blood. NOAEL/LOAEL values across the family of chemicals (i.e., prothioconazole, and metabolites prothioconazole-desthio, and prothioconazole sulfonic acid potassium salt) in the toxicity database indicate that prothioconazole-desthio is a more toxic chemical.

The profile of chronic toxicity is similar to that of subchronic toxicity, and also includes body weight and food consumption changes, and toxicity to the lymphatic and gastrointestinal (GI) systems. The relative potency of prothioconazole-desthio is greater than prothioconazole.

The data from developmental toxicity studies indicate that prothioconazole and the three metabolites evaluated (i.e., prothioconazole-desthio, prothioconazole sulfonic acid potassium salt, and prothioconazole-deschloro) variously produce prenatal developmental effects at levels equal to or below maternally toxic levels. Prothioconazole-desthio is a developmental neurotoxicant,

producing changes in brain morphometrics and increases in the occurrence of peripheral nerve lesions in the neonate. A NOAEL was not determined, since these observations were looked for only at the high dose level. Prothioconazole-desthio is the most toxic orally or dermally, with LOAELs significantly below that of the other chemicals.

In reproduction studies in the rat, conducted using prothioconazole and prothioconazole-desthio, reproductive and offspring toxicities are observed only in the presence of parental toxicity. The nature of parental toxicity is similar to what was observed in the subchronic studies, such as body weight and food consumption changes, liver effects, etc. Reproductive effects include decreases in reproductive indices such as those that indicate pup survival and growth. Offspring toxicity is manifested by decreased pup weights and malformations such as cleft palate. The data show that prothioconazole-desthio is more toxic by an order of magnitude.

Acute and subchronic neurotoxicity studies were conducted in the rat using prothioconazole. The acute neurotoxicity study produced reduced motor and locomotor activity at a relatively high dose level, while no neurotoxicity was observed in the subchronic neurotoxicity study. As mentioned in the discussion of developmental toxicity, a developmental neurotoxicity study was conducted in the rat using prothioconazole-desthio, and neurotoxic effects were at the high dose level only were included in the report. Judging from these three neurotoxicity studies, prothioconazole-desthio is the more potent neurotoxicant, which is consistent with its relative potency in other areas of toxicity.

A battery of mutagenicity studies was conducted using both prothioconazole and its desthio metabolite. In addition, carcinogenicity studies were conducted in rats and mice using these two chemicals. The available data indicate that neither of these compounds is mutagenic or carcinogenic in the species tested, which mitigates against concern for carcinogenicity in humans.

A summary of the toxicological endpoints for prothioconazole used for human risk assessment is shown in Table 1 of this unit:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR PROTHIOCONAZOLE FOR USE IN HUMAN RISK ASSESSMENT

Exposure/scenario	Dose used in risk assessment, interspecies and intraspecies and any traditional UF	FQPA safety factor (SF) and level of concern for risk assessment	Study and toxicological effects
Acute dietary (Females 13–49 years of age)	NOAEL = 2.0 milligram/kilogram/day (mg/kg/day) UF = 100 X acute reference dose (RfD) = 0.002 mg/kg/day	FQPA SF = 10X acute population adjusted dose (aPAD) = acute RfD/Special FQPA SF = 0.002 mg/kg/day	Developmental Toxicity study in rabbits LOAEL = 10 mg/kg/day based on structural alterations including malformed vertebral body and ribs, arthrogryposis, and multiple malformations
Chronic dietary (All populations)	NOAEL= 1.1 mg/kg/day UF = 100 X chronic RfD = 0.001 mg/kg/day	FQPA SF = 10X chronic population adjusted dose (cPAD) = chronic RfD/FQPA SF = 0.001 mg/kg/day	Chronic/Oncogenicity study in rats LOAEL = 8.0 mg/kg/day based on liver histopathology (hepatocellular vacuolation and fatty change (single cell, centrilobular, and periportal))
Cancer (Oral, dermal, inhalation)	Classification: "Not likely to be Carcinogenic to Humans" based on the absence of significant tumor increases in two adequate rodent carcinogenicity studies.		

Note: The toxicity endpoints for prothioconazole-desthio were used for the prothioconazole risk assessment because they were slightly more conservative than those for prothioconazole *per se*.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have not been previously established for the combined residues of prothioconazole and prothioconazole-desthio, calculated as parent, in or on a variety of raw agricultural commodities and combined residues of prothioconazole and prothioconazole-desthio and conjugates that can be converted to these two compounds by acid hydrolysis, calculated as parent, in or on milk and edible animal products. Risk assessments were conducted by EPA to assess dietary exposures from prothioconazole in food as follows:

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

In conducting the acute dietary exposure assessment EPA used the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM-FCID™, version 2.03), which incorporates food consumption data as reported by respondents in the U.S. Department of Agriculture (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII), and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: A moderately refined acute dietary exposure assessment was conducted for prothioconazole. Empirical processing factors (PFs) and livestock maximum residues were incorporated, and 100 percent crop treated (PCT) was assumed for the acute assessment. Average residue levels were also used, since all of the plant commodities included in this assessment are blended food forms.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used DEEM-FCID™, version 2.03, which incorporates food consumption data as reported by respondents in the USDA 1994–1996 and 1998 CSFII, and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: A moderately refined chronic dietary exposure

assessment was performed. Empirical PFs, average residues, and livestock maximum residues were incorporated into the chronic assessment and 100 PCT was assumed.

iii. *Cancer.* The Agency classified prothioconazole and/or its metabolites as "Not likely to be Carcinogenic to Humans" according to the 2005 Cancer Guidelines, based on available studies in the mouse and rat that showed no increase in tumor incidence. Accordingly, no exposure assessment is necessary for assessing cancer risk.

iv. *Anticipated residue and PCT information.* For assessment of acute dietary risk, empirical PFs and livestock maximum residues were incorporated, and 100 PCT was assumed for the acute assessment. Average residue levels were also used, since all of the plant commodities included in this assessment are blended food forms. Likewise for the assessment of chronic dietary risk, empirical PFs, average residues, and livestock maximum residues were incorporated into the chronic assessment and 100 PCT was also assumed.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for prothioconazole in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of prothioconazole. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Groundwater (SCI-GROW) models, the estimated drinking water concentrations (EDWCs) of prothioconazole for acute exposures are estimated to be 22 parts per billion (ppb) for surface water. The EDWCs for chronic exposures are estimated to be 11 ppb for surface water. EPA used the EDWCs for surface water in assessing the risk from prothioconazole because the EWDCs for ground water are minimal in comparison to surface water.

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

Prothioconazole is not registered for use on any sites that would result in residential exposure.

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

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

Prothioconazole is a triazole-derived pesticide. This class of compounds can form the common metabolite 1,2,4-triazole and two triazole conjugates (triazolylalanine and triazolylacetic acid). To support existing tolerances and to establish new tolerances for triazole-derivative pesticides, including prothioconazole, EPA conducted a human health risk assessment for exposure to 1,2,4-triazole, triazolylalanine, and triazolylacetic acid resulting from the use of all current and pending uses of any triazole-derived fungicide. The risk assessment is a highly conservative, screening-level evaluation in terms of hazards associated with common metabolites (e.g., use of a maximum combination of UFs) and potential dietary and non-dietary exposures (i.e., high-end estimates of both dietary and non-dietary exposures). In addition, the Agency retained the additional 10X FQPA SF for the protection of infants and children. The assessment includes evaluations of risks for various subgroups, including those comprised of infants and children. The Agency's complete risk assessment is found in the propiconazole reregistration docket at *http://www.regulations.gov*, docket ID number EPA–HQ–OPP–2005–0497.

D. Safety Factor for Infants and Children

1. *In general.* Section 408 of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. In applying this provision, EPA either retains the default value of 10X when reliable data do not support the choice of a different factor, or, if reliable data are available, EPA uses a different additional SF value based on the use of traditional UFs and/or special FQPA SFs, as appropriate.

2. *Prenatal and postnatal sensitivity*—i. *Prenatal.* Available evidence from rat developmental toxicity studies with prothioconazole (oral) and its desthio (oral and dermal) and sufonic acid K salt (oral) metabolites, rabbit developmental with desthio metabolite (oral), and rat developmental neurotoxicity with desthio metabolite (oral), as well as a multi-generation reproduction study with the desthio metabolite, indicate that there is concern for prenatal toxicity. Effects include skeletal structural abnormalities, such as cleft palate, deviated snout, malocclusion, and extra ribs; developmental delays; other effects include changes in brain morphometry, peripheral nerve lesions, and death.

ii. *Postnatal.* Available data also show that the skeletal effects such as extra ribs are not completely reversible after birth in the rat, but persist as development continues. Data from the developmental neurotoxicity study also show that brain morphometry is

abnormal postnatally, and there is an increased incidence of lesions of the peripheral nerves postnatally.

3. *Conclusion.* The toxicity database for prothioconazole (and its metabolites) is adequate for endpoint selection for exposure risk assessment scenarios and for FQPA evaluation, with the exception of missing data on brain morphometry at lower does from the developmental neurotoxicity study. Effects are seen in the 2–generation reproduction studies in rats; developmental studies in rats and rabbits; and a developmental neurotoxicity study in rats which suggest that pups are more susceptible: Pup effects were seen at levels below the LOAELs for maternal toxicity and, in general, were of comparable or greater severity compared to the effects observed in adults. Additionally, there is uncertainty concerning the LOAEL/NOAEL for developmental effects seen in the developmental neurotoxicity study in rats (abnormal brain morphometry at high dose) due to a lack of information on brain morphometry at lower doses. Given that both quantitative and qualitative sensitivity was observed in pups in several studies and in more than one species and in at least one of these studies there is uncertainty concerning identification of the LOAEL/NOAEL for developmental effects, the additional 10X factor for the protection of infants and children is being retained.

E. Aggregate Risks and Determination of Safety

To assess aggregate risk, drinking water estimates were incorporated directly into the dietary analysis, rather than using back-calculated drinking water levels of comparison (DWLOCs). To better evaluate aggregate risk associated with exposure through food and drinking water, EPA is no longer comparing EDWCs generated by water quality models with DWLOCs. Instead, EPA is now directly incorporating the actual water quality model output concentrations into the risk assessment. This method of incorporating water concentration into our aggregate assessments relies on actual CSFII-reported drinking water consumptions and more appropriately reflects the full distribution of drinking water concentrations.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to prothioconazole will occupy 11% of the aPAD for females 13 years and older, the only population subgroup of concern. In addition, there is potential for acute dietary exposure to prothioconazole in drinking water. The acute dietary exposure from food plus water to prothioconazole will occupy 60% of the aPAD.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to prothioconazole from food will utilize 12% of the cPAD for the U.S. population, 17% of the cPAD for all infants (< 1 year old), and 48% of the cPAD for children 1–2 years old, the subpopulation at greatest exposure. There are no residential uses for prothioconazole that result in chronic residential exposure to prothioconazole. In addition, there is potential for chronic dietary exposure to prothioconazole in drinking water. The chronic dietary exposure for food plus water will occupy 86% of the cPAD for all infants (< 1 year old). All other population subgroups are lower.

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

Prothioconazole is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

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

Prothioconazole is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

5. *Aggregate cancer risk for U.S. population.* The available toxicology studies in the mouse and rat showed no increase in tumor incidence, and therefore the Agency concluded that prothioconazole or its metabolites are not carcinogenic, and classified "Not Likely to be Carcinogenic to Humans" according to the 2005 Cancer Guidelines. Therefore, prothioconazole is not expected to pose a cancer risk.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodologies high performance liquid chromatography/tandem mass spectrometry (HPLC-MS/MS) and liquid chromatography (with electrospray ionization) and tandem mass spectrometry (LC-MS/MS)) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov.*

B. International Residue Limits

There are currently no U.S., Canadian, Mexican, or international Codex tolerances established for prothioconazole. There are no maximum residue limits (MRLs) established for prothioconazole in Codex or in Mexico. Maximum residue limits have been established in Canada as a result of this Joint Review.

C. Response to Comments

A private citizen responded to PP 4F6830. Comments were received on November 30, 2005, objecting to sale and use of this product. The comments further stated that there are not enough long-term testing, short-term testing is useless and unreliable and that research is not exhaustive enough to support use.

The Agency response is as follows: The Agency considers the database for prothioconazole to be complete and adequate for exposure risk assessment, including several long-term studies. The commenter submitted no scientific information to support the claims.

These comments, as well as related comments regarding animal testing, have been responded to by the Agency on several occasions. For example, 70 FR 1349 (January 7, 2005) (FRL–7691–4) and 69 FR 63083 (October 29, 2004) (FRL–7681–9).

V. Conclusion

Therefore, tolerances are established for combined residues of prothioconazole, 2-[2-(1-chlorocyclopropyl)-3-(2-chlorophenyl)-2-hydroxypropyl]-1,2-dihydro-3*H*-1,2,4-triazole-3-thione, and prothioconazole-desthio, α-(1-chlorocyclopropyl)-α-[(2-chlorophenyl)methyl]-1*H*-1,2,4-triazole-1-ethanol, calculated as parent in or on barley, grain at 0.35 ppm; barley, hay at 7.0 ppm; barley, straw at 4.0 ppm; grain, aspirated grain fractions at 11.0 ppm; pea and bean, dried shelled, except soybeans, subgroup 6C at 0.9; peanut at 0.02 ppm; peanut, hay at 6.0 ppm; rapeseed, seed at 0.15 ppm; wheat, grain at 0.07 ppm; wheat, forage at 6.0 ppm; wheat, hay at 4.5 ppm; wheat, straw at 5.0 ppm and for combined residues of prothioconazole, 2-[2-(1-

chlorocyclopropyl)-3-(2-chlorophenyl)-2-hydroxypropyl]-1,2-dihydro-3*H*-1,2,4-triazole-3-thione, and prothioconazole-desthio, α-(1-chlorocyclopropyl)-α-[(2-chlorophenyl)methyl]-1*H*-1,2,4-triazole-1-ethanol, and conjugates that can be converted to these two compounds by acid hydrolysis, calculated as parent in or on cattle, meat at 0.02 ppm; cattle, meat byproducts at 0.2 ppm; cattle, fat at 0.1 ppm; goat, fat at 0.1 ppm; goat, meat at 0.02 ppm; goat, meat byproducts at 0.2 ppm; hog, meat byproducts at 0.05 ppm; horse, fat at 0.1 ppm, horse, meat at 0.02 ppm; horse, meat byproducts at 0.2 ppm; milk at 0.02 ppm; poultry, liver at 0.02 ppm; sheep, fat at 0.1 ppm; sheep, meat at 0.2 ppm and sheet, meat byproducts at 0.2 ppm.

Using upper bound residues for water derived from the proposed use in rice, acute dietary estimates exceeded the Agency's level of concern for food plus water. Further data is needed to resolve uncertainties regarding residues of prothioconazole in rice application. Therefore, a tolerance for rice is not established at this time.

Additional crop field trial data are needed to support tolerances for black mustard, borage, flax and Indian mustard. Tolerances for these commodities are not established at this time.

Separate tolerances are not needed for barley, pearled barley; barley, bran; peanut, meal; wheat, bran; and wheat, germ. As per 40 CFR 180.1(h), the tolerance for rapeseed will cover the following commodities: Canola seed, crambe seed, field mustard seed, and Indian rapeseed.

VI. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: March 2, 2007.

James Jones,

Director, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.626 is added to subpart C to read as follows:

§ 180.626 Prothioconazole; tolerances for residues.

(a) *General.* (1) Tolerances are established for combined residues of the fungicide prothioconazole, 2-[2-(1-chlorocyclopropyl)-3-(2-chlorophenyl)-

2-hydroxypropyl]-1,2-dihydro-3*H*-1,2,4-triazole-3-thione, and prothioconazole-desthio, α-(1-chlorocyclopropyl)-α-[(2-chlorophenyl)methyl]-1*H*-1,2,4-triazole-1-ethanol, calculated as parent in or on the following commodities:

Commodity	Parts per million
Barley, grain	0.35
Barley, hay	7.0
Barley, straw	4.0
Grain, aspirated grain fractions	11
Pea and bean, dried shelled, except soybean, subgroup 6C	0.9
Peanut	0.02
Peanut, hay	6.0
Rapeseed, seed	0.15
Wheat, forage	6.0
Wheat, grain	0.07
Wheat, hay	4.5
Wheat, straw	5.0

(2) Tolerances are established for combined residues of the fungicide prothioconazole, 2-[2-(1-chlorocyclopropyl)-3-(2-chlorophenyl)-2-hydroxypropyl]-1,2-dihydro-3*H*-1,2,4-triazole-3-thione, and prothioconazole-desthio, α-(1-chlorocyclopropyl)-α-[(2-chlorophenyl)methyl]-1*H*-1,2,4-triazole-1-ethanol, and conjugates that can be converted to these two compounds by acid hydrolysis, calculated as parent in or on the following commodities:

Commodity	Parts per million
Cattle, fat	0.1
Cattle, meat	0.02
Cattle, meat byproducts	0.2
Goat, fat	0.1
Goat, meat	0.02
Goat, meat byproducts	0.2
Hog, meat byproducts	0.05
Horse, fat	0.1
Horse, meat	0.02
Horse, meat byproducts	0.2
Milk	0.02
Poultry liver	0.02
Sheep, fat	0.1
Sheep, meat	0.02
Sheep, meat byproducts	0.2

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. E7–4405 Filed 3–13–07; 8:45 am]
BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0207; FRL–8117–2]

Tribenuron Methyl; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of tribenuron methyl in or on corn, field, forage; corn, field, grain; corn, field, stover; rice, grain; rice, straw; sorghum, forage; sorghum, grain, grain; sorghum, grain, stover; soybean, seed; and sunflower, seed. E.I. DuPont de Nemours and Company, Inc. requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

DATES: This regulation is effective March 14, 2007. Objections and requests for hearings must be received on or before May 14, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0207. All documents in the docket are listed in the index for the docket. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Vickie Walters, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: 703-305-7504; e-mail address: *walters.vickie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop production (NAICS codes 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS codes 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS codes 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS codes 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

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

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

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at *http://www.epa.gpo/opptsfrs/home/guidelin.htm*

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2006–0207 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before May 14, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2006–0207, by one of the following methods:

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

II. Background and Statutory Findings

In the **Federal Register** of July 14, 2006 (71 FR 40102) (FRL–8058–7), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 4F6890) by E.I. DuPont de Nemours and Company, Laurel Run Plaza, P. O. Box 80038, Wilmington, DE 19880-0038 and Interregional Research Project No. 4 (IR-4), 681 Highway No. 1 South, North Brunswick, NJ 08902. The petition requested that 40 CFR 180. 451 be amended by establishing a tolerance fo residues of the herbicide tribenuron methyl (methyl 2-[[[[(4-methoxy-6-methyl-1, 3, ,5-triazin-2-yl)methylamino] carbonyl]amino]sulfonyl]benzoate, in or on field corn and grain sorghum (forage, grain, and stover) rice (grain and straw); soybean ,seed; and sunflowers at 0.05.parts per million (ppm). The notice referenced a summary of the petition prepared by E.I. DuPont de Nemours and Company, the registrant, that has been placed into the public docket. A comment was received in response to this notice of filing from B. Sachau, 15 Elm Street, Florham Park, NJ 07932. The comment and EPA's response to this comment is discussed in Unit IV C below.

During the course of the review the Agency noticed that the name of the regulated chemical is incorrect and that the Petition Number for the sunflowers tolerance was inadvertently left out of the notice. The Agency is correcting these errors at this time. The Agency is also updating the commodity listing to agree with current terminology. Therefore the proposed tolerances are corrected to read: tolerances are established for residues of the herbicide tribenuron methyl, (methyl-2-[[[[N-(4-methoxy-6-methyl-1, 3, 5-triazin -2-yl)methylamino] carbonyl]amino]sulfonyl]benzoate) in or on corn, field, forage at 0.05 ppm; corn, field, grain at 0.05 ppm; corn, field, stover at 0.05 ppm; rice, grain at 0.05 ppm; rice, straw at 0.05 ppm; sorghum, grain, forage at 0.05 ppm; sorghum, grain, grain at 0.05 ppm; sorghum, grain, stover at 0.05 ppm, soybean, seed at 0.05 ppm (4F6890) and sunflower, seed at 0.05 ppm (4E6855).

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

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of the FFDCA and a complete description of

the risk assessment process, see *http://www.epa.gov/fedrgstr/EPA-PEST/1997/November/Day-26/p30948.htm.*

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2) of FFDCA, for a tolerance for residues of tribenuron methyl, (methyl-2-[[[[N-(4-methoxy-6-methyl-1, 3, 5-triazin -2-yl)methylamino] carbonyl]amino]sulfonyl]benzoate) in or on corn, field, forage at 0.05 ppm; corn, field, grain at 0.05 ppm; corn, field, stover at 0.05 ppm; rice, grain at 0.05 ppm; rice; straw at 0.05 ppm; sorghum, grain, forage at 0.05 ppm; sorghum, grain, grain at 0.05 ppm; sorghum, grain, stover at 0.05 ppm, soybean, seed at 0.05 ppm and sunflower, seed at 0.05 ppm. EPA's assessment of exposures and risks associated with establishing the tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the toxic effects caused by tribenuron methyl as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found in Unit III. A. of the final rule published in the **Federal Register** of September 22, 2004 (69 FR 56711) (FRL–7679–5).

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, the dose at which the NOAEL from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the LOAEL of concern are identified is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify non-threshold hazards such as cancer. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk, and estimates risk in terms of the probability of occurrence of additional cancer cases. More information can be found on the general principles EPA uses in risk characterization at *http://www.epa.gov/pesticides/health/human.htm.*

A summary of the toxicological endpoints for tribenuron methyl used for human risk assessment is discussed in Unit III.B. of the final rule published in the **Federal Register** of September 22, 2004 (69 FR 56711) (FRL–7679–5).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.451) for the residues of tribenuron methyl, in or on a variety of raw agricultural commodities. No tolerances for meat product, eggs, or milk are established. Risk assessments were conducted by EPA to assess dietary exposures from tribenuron methyl in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. No effect attributable to a single dose was observed in any studies in the toxicology database for tribenuron methyl. As a result, no acute dietary endpoint was identified and no acute risk assessment was performed.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM-FCID™), which incorporates food consumption data as reported by respondents in the USDA 1994-1996 and 1998 Nationwide Continuing Surveys of Food Intakes by Individuals (CSFII), and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: tolerance level residues and 100% crop treated (CT). No empirical processing factors were used. A DEEM (Version 7.81) default processing factor was used for corn syrup. Anticipated residues or estimates of percent crop treated (PCT) were not used.

iii. *Cancer.* Tribenuron methyl is classified as a Group C (possible human carcinogen) because of the increased incidence of mammary gland adenocarcinomas in female Sprague-Dawley rats. Tribenuron methyl was not shown to be mutagenic in any tests conducted. EPA considers the chronic risk assessment to be protective of any potential risk of carcinogenicity. Further discussion is found in Unit III.C. of the final rule published in the **Federal Register** of September 22, 2004, 69 FR 56711 (FRL–7679–5).

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for tribenuron methyl in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of tribenuron methyl. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed/models/water/index.htm.*

Based on the first index reservoir screening tool (FIRST) and screening concentration in ground water (SCI-GROW) models, the estimated drinking water concentrations (EDWCs) of tribenuron methyl for acute exposures are estimated to be 4.1 parts per billion (ppb) for surface water and 6.8 ppb for ground water. The EDWCs for chronic exposures are estimated to be 2.7 ppb for surface water and 6.8 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model (DEEM-FCID). For the chronic dietary risk assessment the higher ground water value of 6.8 ppb was used.

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

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

Unlike other pesticides for which EPA has followed a cumulative risk approach

based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to tribenuron methyl and any other substances and tribenuron methyl does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that tribenuron methyl has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408 of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. In applying this provision, EPA either retains the default value of 10X when reliable data do not support the choice of a different factor, or, if reliable data are available, EPA uses a different additional safety factor value based on the use of traditional uncertainty factors and/or special FQPA safety factors, as appropriate.

2. *Prenatal and postnatal sensitivity.* Developmental and reproductive toxicity studies in rats and rabbits indicated no increased susceptibility (quantitative or qualitative) following *in utero* or prenatal and/or postnatal exposure to tribenuron methyl.

3. *Conclusion.* EPA determined that reliable data show that it would be safe for infants and children to reduce the FQPA safety factor to 1X. That decision is based on the following findings.

i. The toxicity data base for tribenuron methyl is complete. The impact of tribenuron methyl on the nervous system has been specially evaluated in neurotoxicity studies. There was no evidence of neurotoxicity or neuropathology seen in the acute, subchronic, chronic or reproductive studies. Therefore, a developmental neurotoxicity study is required for tribenuron methyl.

ii. The available data from the developmental and reproductive toxicity studies do not indicate a potential susceptibility of infants and children to tribenuron methyl.

iii. There are no residual uncertainties identified in the exposure databases. The dietary food assessments were performed based on 100% CT and tolerance level residues. Conservative ground water estimates were used in the risk assessment. This assessment will not underestimate the exposure and risks posed by tribenuron methyl.

E. Aggregate Risks and Determination of Safety

1. *Acute risk.* No toxic effect attributable to a single dose was observed in any studies in the toxicology database. As a result, no acute risk is expected.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to tribenuron methyl from food and water will utilize 4.7% of the cPAD for the U.S. population, 9.8% of the cPAD for all infants (<1 year old), and 9.1% of the cPAD for children 3-5 years old. There are no residential uses for tribenuron methyl that result in chronic residential exposure to tribenuron methyl. EPA does not expect the aggregate exposure to exceed 100% of the cPAD.

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

Tribenuron methyl is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which does not exceed the Agency's level of concern.

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

Tribenuron methyl is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which does not exceed the Agency's level of concern.

5. *Aggregate cancer risk for U.S. population.* The Agency considers the chronic risk assessment, making use of the cPAD, to be protective of any aggregate cancer risk. See Unit III. E.2. Therefore, the aggregate risk is not expected to exceed the Agency's level of concern.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (including high performance liquid chromatography (HPLC) with photo-conductivity and liquid chromatography with detection via electrospray mass spectroscopy (LC/MS)) are available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755-5350; telephone number: (410) 305-2905; e-mail address: *residuemethods@epa.gov.*

B. International Residue Limits

No Mexican or Codex Maximum Residue Levels (MRLs) have been established for tribenuron methyl. Canadian MRLs have been established for tribenuron methyl on certain crops; however, no MRLs have been established for corn, field, forage; corn, field, grain; corn, field, stover; rice, grain; rice, straw; sorghum, grain, forage; sorghum, grain, grain; sorghum, grain, stover; soybean, seed; or sunflower, seed, therefore no questions of compatibility exist for these commodities.

C. Response to Comments

A comment was received from Ms. B. Sachau in response to the notice of filing. Ms. Sachau stated that the chemical should not be manufactured or sold. Ms. Sachau based her conclusion on the following: eye irritation potential, effects on the liver and kidney, and its carcinogenic potential. Ms. Sachau also questioned the availability of testing for this chemical in combination with other chemicals in use today.

The effects on the kidney and liver were the basis of the chronic reference dose (cRfD) and cPAD used for the chronic dietary risk assessment. As discussed in Unit III. E.2, EPA does not expect the aggregate exposure to exceed 100% of the cPAD which does not exceed the Agency's level of concern. After review of available data, the Agency considers the chronic risk

assessment, making use of the cPAD, to be protective of any aggregate cancer risk. Ms. Sachau did not submit any scientific information to support a revision of Agency conclusions.

EPA generally does not require companies to conduct studies to evaluate the potential for synergistic effects from exposure to combinations of chemical exposure. Such testing rarely shows any kind of interaction (synergistic or antagonistic), and there are a nearly infinite number of possible combinations, making the cost of indiscriminate testing prohibitively high.

Because synergism does not occur often, the scientific community believes that exposure to multiple chemicals is best assessed by looking the effects caused by exposure to each chemical individually. The only exception to that is when people are exposed to multiple chemicals that share a common mechanism of toxicity. Then the effects of exposure to multiple chemicals are expected to be additive, adjusted for the relative toxicity of the different chemicals. This is done through Agency cumulative risk assessments, which are discussed in Unit III.C.4. of this document. Ms. Sachau did not submit any scientific information to support a revision of Agency conclusions.

V. Conclusion

Therefore, the tolerances are established for residues of tribenuron methyl, (methyl-2-[[[[N-(4-methoxy-6-methyl-1, 3, 5-triazin -2-yl)methylamino] carbonyl]amino]sulfonyl]benzoate) in or on corn, field, forage at 0.05 ppm; corn, field, grain at 0.05 ppm; corn, field, stover at 0.05 ppm; rice, grain at 0.05 ppm; rice; straw at 0.05 ppm; sorghum, grain, forage at 0.05 ppm; sorghum, grain, grain at 0.05 ppm; sorghum, grain, stover at 0.05 ppm, soybean, seed at 0.05 ppm and sunflower, seed at 0.05 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: March 5, 2007.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.451 is amended by alphabetically adding commodities to the table in paragraph (a) to read as follows:

§ 180.451 Tribenuron methyl; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Corn, field, forage	0.05
Corn, field, grain	0.05
Corn, field, stover	0.05
* * * * *	
Rice, grain	0.05
Rice, straw	0.05
Sorghum, grain, forage	0.05
Sorghum, grain, grain	0.05
Sorghum, grain, stover	0.05
Soybean, seed	0.05
Sunflower, seed	0.05
* * * * *	

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[FR Doc. E7–4645 Filed 3–13–07; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket 03–123; DA 06–2532]

Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities

AGENCY: Federal Communications Commission.

ACTION: Final rule; extension of waiver.

SUMMARY: In this document, the Commission extends for an additional year the waiver of the emergency call handling requirement for providers of Video Relay Service (VRS). The Commission extends the waiver for one year in view of continued technological challenges to determining the geographic location of telecommunications relay service (TRS) calls that originate via the Internet.

DATES: The waiver of the emergency call handling requirement will expire on January 1, 2008, or upon the release of an order addressing the VRS emergency call handling issue, whichever comes first.

FOR FURTHER INFORMATION CONTACT: Thomas Chandler, (202) 418–1475 (voice), (202) 418–0597 (TTY), or e-mail *Thomas.Chandler@fcc.gov*.

SUPPLEMENTARY INFORMATION: On December 31, 2001, the Commission released *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Waiver Order*, DA 01–3029, CC Docket No. 98–67, 17 FCC Rcd 157 (2001), granting VRS providers a waiver until December 31, 2003, of certain TRS mandatory minimum standards, including the emergency call handling requirement. On December 19, 2003, the Commission released *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Order*, DA 03–4029, CC Docket No. 98–67, 18 FCC Rcd 26309 (2003), extending the waiver to June 30, 2004. On June 30, 2004, the Commission released *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, 2004 TRS Report and Order*, FCC 04–137, CC Docket No. 98–67, published at 69 FR 53382, September 1, 2004, extending the waiver until January 1, 2006. On December 5, 2005, the Commission released *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Order*, DA 05–3139, CG Docket No. 03–123, published at 70 FR 76712, December 28, 2005, again extending the waiver until January 1, 2007. This is a summary of the Commission's document DA 06–2532, adopted December 15, 2006, released December 15, 2006.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY). The Commission's document DA 06–2532 can also be downloaded in Word and Portable Document Format (PDF) at *http://www.fcc.gov/cgb.dro*.

Synopsis

The Commission's TRS regulations set forth operational, technical, and functional mandatory minimum standards applicable to the provision of TRS. *See* 47 CFR 64.604 of the Commission's rules (the TRS "mandatory minimum standards"). To be eligible for reimbursement from the Interstate TRS Fund for the provision of TRS, the provider must offer service in compliance with all applicable mandatory minimum standards, unless waived. *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking (*Improved TRS Order and FNPRM*), FCC 00–56, CC Docket No. 98–67, published at 65 FR 38432, June 21, 2000 and 65 FR 38490, June 21, 2000.

The mandatory minimum standards require TRS providers to handle emergency calls by immediately and automatically transferring the calls to an appropriate public safety answering point (PSAP). *See* 47 CFR 64.604(a)(4) of the Commission's rules. The Commission recognized that many individuals use VRS and IP Relay to contact emergency services despite the fact that persons with hearing and speech disabilities can make calls directly to the PSAP by calling 911 through a TTY and a traditional telephone line. *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Notice of Proposed Rulemaking (*VRS 911 NPRM*), FCC 05–196, CG Docket No. 03–123, published at 71 FR 5221, February 1, 2006. Regulations require state and local governments to make emergency

services directly accessible to TTY users (*i.e.*, for direct TTY to TTY calls).

In March 2000, the Commission recognized VRS as a form of TRS eligible for compensation from the Interstate TRS Fund. *See Improved TRS Order and FNPRM*, 15 FCC Rcd 5152–5154, paragraphs 21–27. On December 31, 2001, the Commission granted VRS providers a two-year waiver of certain TRS mandatory minimum standards, including the emergency call handling requirement. This waiver was extended to January 1, 2007. *See Telecommunications Relay Services Speech-to-Speech Services for Individuals with Hearing and Speech* Disabilities, Order (*2005 VRS 911 Waiver Order*), DA 05–3139, CG Docket No. 03–123, published at 70 FR76712, December 28, 2005.

On November 30, 2005, the Commission released the *VRS 911 NPRM*, seeking comment on how providers of the Internet-based TRS services, including VRS, may determine the appropriate PSAP to contact when they receive an emergency call. *See* (*VRS 911 NPRM*). The Commission emphasized the importance of developing the technology required to promptly route VRS calls seeking emergency assistance to the appropriate emergency service provider. *VRS 911 NPRM*, 20 FCC Rcd 19476—19477, paragraphs 1–2, 19484, paragraph 18.

On November 14, 2006, Sprint Nextel Corporation filed a petition to extend the waiver until January 1, 2008, or until the release of an order addressing this matter, whichever happens first. Sprint Nextel Corporation (Sprint), *Petition for Waiver*, CG Docket No. 03–123, filed November 14, 2006 (*Sprint Petition*). In its petition, Sprint states that the technological challenges that led to the extension of the current waiver for VRS are still present. Sprint therefore states that because providers are still unable to automatically determine the geographic location of VRS callers, there is good cause for extending the waiver.

On November 15, 2006, the Commission held the E9–1–1 Disability Access Summit (Summit) to discuss advances in E9–1–1 calling technology and access for persons with hearing and speech disabilities, including via VRS calls. *FCC Releases Agenda for November 15 E9–1–1 Disability Access Summit*, News Release (November 13, 2006). The Summit brought together representatives from the government, industry, and consumer groups to exchange information and evaluate options for addressing this critical issue.

During the Summit, Sprint, Communications Services for the Deaf (CSD), Communications Access Center (CAC), Hands On Video Relay Services (Hands On), Hamilton Relay (Hamilton), and Sorenson Communications (Sorenson), all VRS providers, noted that technology has not yet been developed to allow them to automatically forward emergency VRS calls to the appropriate PSAP. *See E9–1–1 Disability Access Summit*, Meeting Transcript (November 15, 2006). They also explained the interim methods being used to connect VRS calls to PSAPs. These include ensuring that incoming emergency VRS calls are given priority call handling, using two CAs during an emergency call to ensure that location and other necessary information is gathered from the VRS user, in other words, in addition to the CA handling the relay call, a second CA would assist in relaying the call and use of a national database to locate the appropriate PSAP to call. CSD Comments, *E9–1–1 Disability Access Summit*, Provider Panel. In other words, if the VRS caller is able to do so, the caller provides the CA with his or her location, the CA determines the appropriate PSAP for that location through a national database, and the CA then makes the outbound call to the PASP. Another provider noted that its CAs will stay on the call until the first responders arrive at the emergency location to ensure that the VRS user is able to communicate with the emergency personnel. Sorenson Comments, *E9–1–1 Disability Access Summit*, Provider Panel.

Also during the Summit, Consumer groups acknowledged that users are moving away from using TTYs and that VRS is now widely used in the deaf community. *See, e.g.*, NorCal Center on Deafness Comments, *E9–1–1 Disability Access Summit*, Consumer Panel. Consumers also advocated for the development of automated methods for determining the location of VRS callers, the ability to handle emergency calls from mobile devices, training for 911 operators on responding to calls from persons with speech or hearing disabilities, and interoperability between PSAPs. *See E9–1–1 Disability Access Summit*, Consumer Panel (panelist representing consumers included Sheri Farinha Mutti, Claude Stout, Rebecca Ladew, Ed Bosson, and Elizabeth Spiers).

Discussion

The Commission recognizes the vital importance of access to emergency services for all relay services, particularly VRS. For this reason, the Commission sought detailed comment on this issue in the *VRS 911 NPRM*, and recently held the E9–1–1 Disability Access Summit to explore continuing developments to finding a solution to this issue. The Commission also recognizes, however, that although providers and other interested parties are actively working toward a solution to this critical issue, presently a technological solution does not exist to automatically route Internet-based emergency VRS calls to the appropriate PSAP—*i.e.*, to automatically determine the geographic location of the VRS caller so the call can be linked to the appropriate PSAP. For this reason, some providers have taken interim measures for handling emergency calls. For example, some providers are able to give emergency calls priority call handling. *See, e.g., Sorenson Comments, E9–1–1 Disability Access Summit*, Provider Panel. Providers may consider the feasibility of using a dedicated emergency calling "link" on their VRS Web-site that callers making an emergency VRS call can use and that will allow providers to promptly identify and handle incoming emergency calls. Others use two CAs on an emergency call to assist in gathering accurate information from the caller. *See, e.g.*, E9–1–1 *Disability Access Summit*, Provider Panel (remarks of CSD and Verizon). At least one provider uses a national database to determine the appropriate PSAP for the caller's location. *See, e.g.*, Sorenson Comments, E9–1–1 *Disability Access Summit*, Provider Panel (noting that it uses Intrado to determine the appropriate PSAP and its telephone number for a particular address). Until a technological solution is adopted that automatically routes VRS 911 calls, the Commission encourages all VRS providers to take similar or other steps to ensure that emergency calls are routed to the appropriate PSAP as quickly as possible.

The Commission may waive a provision of its rules for "good cause shown." 47 CFR 1.3; *see generally 2004 TRS Report and Order*, 19 FCC Rcd 12520, paragraph 110 (discussing standard for waiving Commission rules). Because it is apparent that the current state of technology does not allow a means of automatically determining the geographic location of TRS calls originating via the Internet, including VRS calls, the Commission finds good cause exists to extend the present waiver of the emergency call handling requirement for VRS providers until January 1, 2008 or upon the release of an order addressing this issue, whichever comes first. The Commission also notes that a similar issue exists

with respect to VoIP service (*i.e.*, voice telephone calls made via the Internet rather than the PSTN), and that for this reason, the Commission has presently mandated that VoIP providers obtain a registered location for each of their customers so that the providers can direct an emergency VoIP call to the appropriate PSAP. In the pending *VRS 911 NPRM*, the Commission sought comment on the adoption of a registered location requirement similar to the VoIP requirement. *VRS 911 NPRM*, 20 FCC Rcd 19484–19486, paragraphs 19–22. In addition, the Commission raised other potential options for addressing emergency call handling, including developing a unified database of PSAPs that providers could use when receiving an emergency call, requiring providers to give priority access to emergency calls, and structuring VRS and IP Relay calls in such a way that they include a VoIP call, so that the VoIP registration could apply to the VRS or IP Relay call. *VRS 911 NPRM*, 20 FCC Rcd 19487, paragraphs 24–26. These issues remain pending.

Ordering Clause

Pursuant to the authority contained in sections 225 of the Communications Act of 1934, as amended, 47 U.S.C. 225, and §§ 0.141, 0.361, and 1.3 of the Commission's rules, 47 CFR 0.141, 0.361, 1.3, the *Order is adopted.*

Federal Communications Commission.

Jay Keithley,

Deputy Bureau Chief, Consumer & Governmental Affairs Bureau.

[FR Doc. E7–4248 Filed 3–13–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 07–810; MB Docket No. 05–97; RM–11186; RM–11251]

Radio Broadcasting Services; Milano, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division granted a Petition for Rule Making filed by Charles Crawford, requesting the allotment of Channel 274A at Milano, Texas, as its first local service. The reference coordinates for Channel 274A at Milano, Texas are 30–38–30 NL and 96–55–00 WL. This allotment requires a site restriction of 9.2 kilometers (5.7 miles) southwest of Milano to avoid a short-spacing to the license site of FM Station KBRQ, Channel 273C1, Hillsboro, Texas. A counterproposal filed by Starboard Media Foundation, Inc., proposing the reservation of Channel 274A at Milano, Texas for noncommercial educational use was dismissed pursuant to Section 73.525(c) of the Commission's Rules.

DATES: Effective April 9, 2007.

ADDRESSES: Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, MB Docket No. 05–97, adopted February 21, 2007, and released February 23, 2007. The *Notice of Proposed Rule Making* proposed the allotment of Channel 274A at Milano, Texas. *See* 70 FR 15046, published March 24, 2005. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *www.BCPIWEB.com*. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Milano, Channel 274A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E7–4543 Filed 3–13–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 07–809; MB Docket No. 05–229; RM–10780]

Radio Broadcasting Services; Madisonville and Rosebud, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule; denial of petition for reconsideration.

SUMMARY: This document denies a petition for reconsideration filed by Gerald Proctor ("Proctor") directed to the Report and Order in this proceeding. In denying the petition for reconsideration, the Media Bureau affirms the dismissal of Proctor's untimely expression of interest because it would prejudice a conflicting application.

FOR FURTHER INFORMATION CONTACT: Helen McLean, Media Bureau, (202) 418–2738.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order*, MB Docket No. 05–229, adopted February 21, 2007, and released February 23, 2007. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com*.

This document is not subject to the Congressional Review Act. The Commission is, therefore, not required to submit a copy of this *Memorandum Opinion and Order* to the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A) because the aforementioned petition for reconsideration was denied.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E7–4548 Filed 3–13–07; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Hunting and Fishing

CFR Correction

In Title 50 of the Code of Federal Regulations, parts 18 to 199, revised as of October 1, 2006, on page 302, § 32.42 is corrected by reinstating the heading "Sherburne National Wildlife Refuge" in the first column before paragraph *A*.

[FR Doc. 07–55501 Filed 3–13–06; 8:45 am]
BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 061229343–7050–02; I.D. 121406A]

RIN 0648–AV03

Pacific Halibut Fisheries; Catch Sharing Plan

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

ACTION: Final rule.

SUMMARY: The Assistant Administrator for Fisheries, NOAA (AA), on behalf of the International Pacific Halibut Commission (IPHC), publishes annual management measures promulgated as regulations by the IPHC and approved by the Secretary of State governing the Pacific halibut fishery. The AA also announces modifications to the Catch Sharing Plan (CSP) for Area 2A (waters off the U.S. West Coast) and implementing regulations for 2007, and announces approval of the Area 2A CSP. These actions are intended to enhance the conservation of Pacific halibut and further the goals and objectives of the Pacific Fishery Management Council (PFMC) and the North Pacific Fishery Management Council (NPFMC).

DATES: Effective March 10, 2007.

ADDRESSES: Additional requests for information regarding this action may be obtained by contacting either the International Pacific Halibut Commission, P.O. Box 95009, Seattle, WA 98145–2009, or Sustainable Fisheries Division, NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668, or Sustainable Fisheries Division, NMFS Northwest Region, 7600 Sand Point Way, NE, Seattle, WA 98105. This final rule also is accessible via the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For waters off Alaska, Jay Ginter, 907–586–7171, e-mail at *jay.ginter@noaa.gov*; or for waters off the U.S. West Coast, Yvonne deReynier, 206–526–6129, e-mail at yvonne.dereynier@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The IPHC has promulgated regulations governing the Pacific halibut fishery in 2007 under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention signed at Washington, D.C., on March 29, 1979. The IPHC regulations have been approved by the Secretary of State of the United States under section 4 of the Northern Pacific Halibut Act (Halibut Act, 16 U.S.C. 773–773k). Pursuant to regulations at 50 CFR 300.62, the approved IPHC regulations setting forth the 2007 IPHC annual management measures are published in the **Federal Register** to provide notice of their effectiveness, and to inform persons subject to the regulations of the restrictions and requirements. These management measures are effective until superseded by the 2008 management measures, which NMFS will publish in the **Federal Register**.

The IPHC held its annual meeting in Victoria, British Columbia, January 16–19, 2007, and adopted regulations for halibut fisheries in 2007. The substantive changes to the previous IPHC regulations (71 FR 10850, March 3, 2006) that affect U.S. fishermen include:

1. New catch limits in all regulatory areas (areas);
2. Opening date for commercial fisheries;
3. A new date by which managers of Community Development Quota (CDQ) fishing report sublegal-sized halibut to the IPHC;
4. An allowance to temporarily possess sublegal sized halibut caught in commercial fisheries to determine whether their size meets the minimum legal size limit before returning the fish to the sea with a minimum of injury;
5. A change to regulations governing sport fishing; and
6. Adoption of the revised Area 2A CSP.

Catch Limits

The IPHC recommended catch limits for 2007 to the Governments of Canada and the United States totaling 65,170,000 pounds (29,561 metric tons (mt)) . This represents a 6.7 percent decrease from the 2006 catch limit of 69,860,000 pounds (31,688 mt). The IPHC staff reported on the assessment of the Pacific halibut stock in 2006. The assessment indicated healthy halibut stocks in Areas 3A through 2A, but indicated declines in Areas 3B and throughout Area 4 as shown by lower fishery and survey catch rates. Recruitment of 1994 and 1995 year classes appeared relatively strong in all areas except Area 4B, which continued to demonstrate lower recruitment levels for all year classes. The IPHC staff also reported that recoveries of Passive Integrated Transponder tagged halibut in the Bering Sea and Gulf of Alaska remain low, providing insufficient information to reliably estimate exploitable biomass in those areas.

Based on recommendations by the IPHC staff, the IPHC continued using an optimum harvest rate of 22.5 percent as the baseline harvest rate for Areas 2A, 2B, 2C, and 3A. However, a more conservative harvest rate was used in the western areas due to the aforementioned stock condition concerns. For Areas 3B and 4A, the IPHC continued using a harvest rate of 20 percent in recognition of the continuing trend in lower abundance. The IPHC continued using a harvest rate of 15 percent for Areas 4B and 4CDE where productivity and recruitment have continued to be low as a precautionary measure.

Opening Date for Commercial Fisheries

The opening date for the tribal commercial fishery in Area 2A and for the commercial fisheries in Areas 2B through 4E was set at March 10, 2007. This date was determined by taking into account the condition of tides and timing of the first fresh halibut to retail markets. The commercial season closing date for 2007 continues to be November 15. Commercial fishing for halibut during this period may start on March 10 at noon, local time, and end on November 15 at noon, local time. In Area 2A, 10-hour non-tribal derby openings will be held on the following days, until the quota is taken and the fishery is closed: June 27, July 11, July 25, August 8, August 22, September 5, and September 19. The commercial season in waters off British Columbia and Alaska is longer than it is in Area 2A due to the individual quota management policies that govern commercial fishing in and off of British Columbia and Alaska.

Report Date for CDQ Managers

Current regulations at sec. 7 of the Halibut Act allow persons fishing for CDQ halibut in Areas 4D or 4E to retain sublegal sized halibut for their personal use provided that they land their total annual halibut catch in these areas. In addition, managers of the CDQ organizations that authorize CDQ harvest in these areas must report annually to the IPHC the total weight and number of undersized halibut retained in Area 4D and 4E CDQ fisheries. The IPHC changed the due date for this report from December 1 to November 1 to facilitate the incorporation of these data in its annual meeting materials.

Sublegal Halibut Possession Allowance

Current regulations at sec. 14 of the Halibut Act require all halibut caught in the commercial fishery for halibut, but that are not retained, to be immediately released and returned to the sea with a minimum of injury. The IPHC recognized that this rule technically would prohibit retaining a halibut on the catcher vessel to determine whether it meets the minimum size limit for commercially harvested halibut. Hence, the IPHC recommended a regulatory change that would allow the temporary possession of a commercially harvested halibut to determine its length and if it is of sublegal size, it would be returned to the sea with a minimum of injury to enhance its survival potential.

Change to Sport Fishing Regulations off Alaska

Current regulations prohibit in all areas the filleting, mutilation or other disfigurement of sport-caught halibut that would prevent the determination of the size or number of halibut possessed or landed. In areas in and off of Alaska (Areas 2C through 4E), however, the IPHC recommended that this prohibition apply only to halibut on the catcher vessel. Once landed or offloaded from the catcher vessel, this prohibition would not apply. This change is intended to facilitate the processing of sport-caught halibut in Alaska for personal use.

Rejected Sport Fishing Regulations

The IPHC recommended decreased sport fishing daily bag limits for anglers on charter vessels in Areas 2C and 3A from two fish to one fish per angler during specific time periods. In Area 2C, the one-fish bag limit was recommended to apply to charter vessel anglers from June 15 through July 30 and in Area 3A from June 15 through June 30. The IPHC intended for these reduced bag limits to apply until superseded by regulations promulgated by the AA.

The IPHC took this action because it believed that its management goals were at risk by the rapid growth in charter vessel harvest of halibut in excess of the NPFMC's guideline harvest level (GHL) for charter vessel harvest, especially in Area 2C. The IPHC recognized the role of the NPFMC in developing policy and regulations that allocate the Pacific halibut resource among fishermen in and off of Alaska, and that the NPFMC is actively developing a program to manage the charter vessel fishery for halibut. However, the NPFMC management program has not yet been recommended to the AA, and if approved, could not be implemented before the 2008 charter vessel fishing season. Therefore, the IPHC determined that its recommended bag limits in Areas 2C and 3A were necessary to prevent further growth in the halibut harvest by charter vessel anglers as an immediate but interim measure until the NPFMC management program for this fishery can be implemented.

The United States is unable to accept the IPHC's reduction in the daily bag limit for halibut caught from sport charter vessels in Areas 3A and 2C. These regulatory decisions are more appropriately handled through the development and implementation of regulations by domestic fisheries management agencies. For Area 3A, the State of Alaska Commissioner of Fish and Game (State) issued an emergency order on January 26, 2007, prohibiting a sport fishing guide and a sport fishing crew member working on a charter vessel in salt waters of Southcentral Alaska from retaining fish while clients are onboard the vessel. This emergency order will be effective from May 1, 2007, through December 31, 2007. Also, the emergency order limits the maximum number of lines that may be fished from a charter vessel to the number of paying clients onboard the vessel. The State estimates that this action will reduce the harvest of halibut on charter vessels in Area 3A by 7.7 percent to 10.6 percent. This reduction in the charter halibut harvest in Area 3A likely will be sufficient to maintain it at about the level of the GHL because the GHL was exceeded in this area by an estimated 8 percent to 9 percent in 2006.

For Area 2C, the IPHC-recommended bag limit reduction would likely reduce the estimated charter vessel harvest in 2006 by about 20 percent in 2007. Although the recommended one-fish bag limit on charter vessel anglers in Area 2C could lower the total charter vessel harvest somewhat, the AA has determined that a comparable mortality reduction could be achieved by alternative regulations that would minimize potential negative economic impacts on the charter vessel industry. Hence, the IPHC-recommended reduced bag limits for the charter vessel fishery in Area 2C were rejected in favor of substitute alternative restrictions which will be implemented through a separate domestic regulatory action. The AA's goal in implementing substitute restrictions is to reduce sport fishing mortality of halibut in the charter fishery sector in Area 2C to a level comparable to the level that would be achieved by the IPHC-recommended regulations. The AA intends for the substitute restrictions to minimize negative impacts on the charter fishery, its sport fishing clients, the coastal communities that serve as home ports for this fishery, and on fisheries for other species.

Catch Sharing Plan (CSP) for Area 2A

This action also implements the CSP for regulatory Area 2A. This plan was developed by the PFMC under authority of the Halibut Act. Section 5 of the Halibut Act (16 U.S.C. 773c) provides the Secretary of Commerce (Secretary) with general responsibility to carry out the Convention and to adopt such regulations as may be necessary to implement the purposes and objectives of the Convention and the Halibut Act. The Secretary's authority has been delegated to the AA. Section 5 of the Halibut Act (16 U.S.C. 773c(c)) also authorizes the Regional Fishery Management Council having authority for the geographic area concerned to develop regulations governing the Pacific halibut catch in United States Convention waters that are in addition to, but not in conflict with, regulations of the IPHC. Pursuant to this authority, the PFMC's Area 2A CSP allocates the halibut catch limit for Area 2A among treaty Indian, non-treaty commercial, and non-treaty sport fisheries in and off Washington, Oregon, and California.

For 2007, PFMC recommended changes to the CSP to modify the Pacific halibut fisheries in Area 2A in 2007 to (1) constrain the Washington North Coast subarea June fishery to two specific nearshore areas on the first Tuesday and Thursday following June 17; (2) reopen the Washington North Coast subarea June fishery in the entire north coast subarea on the first Saturday following June 17; (3) if sufficient quota remains, reopen the entire Washington North Coast subarea for one day on the first Thursday following June 24, otherwise, reopen the nearshore areas on the first Thursday following June 24 for up to four days per week (Thursday-

Sunday) until the quota is taken; (4) set aside 5 percent of the Washington South Coast subarea quota for the nearshore fishery once the primary fishery has closed; (5) set the Washington South Coast subarea nearshore fishery as a 2-day per week fishery, open Fridays and Saturdays; (6) implement additional closed areas (Yelloweye Rockfish Conservation Areas, or YRCAs) off the coast of Washington that would affect commercial and sport halibut fisheries; (7) remove latitude/longitude coordinates from the CSP but refer to the regulations in which they are published to reduce duplication; (8) remove language referring to salmon troll fishery July-September season; (9) add a definition of the Bonilla-Tatoosh line; and (10) decrease the California possession limit on land from two daily limits to one daily limit statewide to conform with state regulation. NMFS published a proposed rule to implement the PFMC's recommended changes to the CSP, and to implement the 2007 Area 2A sport fishing season regulations on January 16, 2007 (72 FR 1690).

This final rule announces approval of revisions to the Area 2A CSP and implements the Area 2A CSP and management measures for 2007. These halibut management measures are effective until superceded by the 2008 halibut management measures that will be published in the **Federal Register**.

Comments and Responses

NMFS accepted comments on the proposed rule to implement the 2007 Area 2A CSP through February 2, 2007, and received one letter of comment from a member of the public, plus one letter of comment apiece from Washington Department of Fish and Wildlife (WDFW) and Oregon Department of Fish and Wildlife (ODFW), plus one email comment from a member of the public. NMFS also received a letter from the United States Department of Interior indicating that it had no comments to offer.

Comment 1: The WDFW held a public meeting on January 29, 2007, to review the results of the 2006 Puget Sound halibut fishery, and to develop season dates for the 2007 sport halibut fishery. Based on the 2007 Area 2A total allowable catch of 1.34 million lb (607.8 mt) the halibut quota for the Puget Sound sport fishery is 65,562 lb (29.7 mt) Applying WDFW's Fishing Equivalent Day (FED) method for estimating the Puget Sound fishery's season length, and applying the highest catch per FED in the past five years, there are 83 FEDs available for the Eastern Region and 83.5 FEDs available for the Western Region in 2007. Using the CSP's guidance for setting an earlier season for the Eastern Region of Puget Sound than for the Western Region, WDFW recommends that the regions within the Puget Sound sport halibut fishery will be open as follows: Eastern Region to be open April 9 through June 16, 2006; Western Region to be open May 24 through August 3, 2006.

Response: NMFS agrees with WDFW's recommended Puget Sound season dates and has implemented them via this final rule.

Comment 2: The ODFW held a public meeting on January 24, 2007, to gather comments on the open dates for the Spring recreational all-depth fishery in Oregon's Central Coast sub-area. Since 2003, the number of open fishing days that could be accommodated in the Spring fishery has been roughly constant. The catch limit for this sub-area's Spring season will be 170,242 lb (77.2 mt) in 2007, based on the IPHC's 2007 recommendations for Area 2A. Given the relatively constant effort pattern in recent years, and the similar catch level in 2007 to that in 2006, ODFW recommends setting a Central Coast all-depth fishery of 15 days, with 9 additional back-up dates, in case the sub-area's Spring quota is not taken in the initial 15 days. ODFW recommends the following days for the Spring fishery, within this sub-area's parameters for a Thursday-Saturday season: regular open days of May 10–12, 17–19, 24–26, and 31, June 1–2, and 7–9; back-up open days of June 22–23, and July 5–7, and 19–21. For the Summer fishery in this sub-area, ODFW recommended following the CSP's parameters of opening the first Friday in August, with open days to occur every other Friday-Sunday, unless modified inseason within the parameters of the CSP. Under the CSP, the 2007 summer all-depth fishery in Oregon's Central Coast sub-area would occur: August 3–5, 17–19, and 31, September 1–2, and 14–16, and 28–30, and October 12–14, and 26–28.

Response: NMFS agrees with ODFW's recommended Central Coast season dates and has implemented them via this final rule.

Comment 3: One member of the public sent an email comment writing, "I am a commercial salmon troller and have been limited by strict closures to our salmon season. I have applied for the incidental catch permit these past three years and have made a few extra dollars in being able to keep a limited number of halibut along with my salmon. This past year due to extreme salmon closures my catch of halibut was very minimal. I haven't taken a whole lot of halibut in my three years using the incidental catch permit. We are limited by weather, season limits, and the latest extreme salmon closures. At the same time, the sport fishery has been dramatically cut in regards to salmon, yet they were allowed to target halibut as usual. My request is that you consider either raising the quota for incidental catch for salmon trollers or at the least keep the limits the same as in the past. I do not believe the salmon trollers have a major impact on the halibut resource. I am an Oregon fisherman and am aware that there are a few boats that do quite well on the Northern Washington coast. Even with these catches I am not sure that the salmon trollers as a whole take a substantial amount of halibut. Please consider this comment in making your decision for my future in regards to the incidental Halibut fishery."

Response: The 2007 quota for incidental halibut catch in the salmon troll fishery is established in the CSP as a proportion of the overall Area 2A total allowable catch (TAC), as are the quotas for the Washington and Oregon directed recreational fisheries for halibut. For 2007, the quota for the incidental salmon troll fishery is 40,227 lb (18.2 mt), a slight decrease from 2006, when the quota was 41,464 lb (18.8 mt). At its March 5–9, 2007, meeting in Sacramento, California, the PFMC will consider alternative incidental halibut catch rates for the 2007 salmon troll fishery. The PFMC will then make final recommendations on those incidental catch rates at its April 2–6, 2007, meeting in Tacoma, Washington, which will be included in its 2007 salmon troll fishery management recommendations to NMFS.

Annual Halibut Management Measures

The annual management measures that follow for the 2007 Pacific halibut fishery are those adopted by the IPHC and approved by the Secretary of State.

1. Short Title

These regulations may be cited as the Pacific Halibut Fishery Regulations.

2. Application

(1) These Regulations apply to persons and vessels fishing for halibut in, or possessing halibut taken from the maritime area as defined in Section 3.

(2) Sections 3 to 6 apply generally to all halibut fishng

(3) Sections 7 to 20 apply to commercial fishng for halibut

(4) Section 21 applies to tagged halibut caught by any vessel.

(5) Section 22 applies to the United States treaty Indian fishery in subarea 2A–1

(6) Section 23 applies to customary and traditional fishng in Alaska

(7) Section 24 applies to Aboriginal groups fishing for food, social and ceremonial purposes in British Columbia.

(8) Section 25 applies to sport fishing for halibut.

(9) These Regulations do not apply to fishing operations authorized or conducted by the Commission for research purposes.

3. Interpretation

(1) In these Regulations,

(a) *Authorized officer* means any State, Federal, or Provincial officer authorized to enforce these regulations including, but not limited to, the National Marine Fisheries Service (NMFS), Canada's Department of Fisheries and Oceans (DFO), Alaska Bureau of Wildlife Enforcement (ABWE), United States Coast Guard (USCG), Washington Department of Fish and Wildlife (WDFW), and the Oregon State Police (OSP);

(b) *Authorized clearance personnel* means an authorized officer of the United States, a representative of the Commission, or a designated fish processor;

(c) *Charter vessel* means a vessel used for hire in sport fishng for halibut, but not including a vessel without a hired operator;

(d) *Commercial fishing* means fishing, other than

(i) treaty Indian ceremonial and subsistence fishing as referred to in section 22,

(ii) customary and traditional fishing as referred to in section 23 and defined by and regulated pursuant to NMFS regulations published at 50 CFR part 300, the resulting catch of which is sold or bartered; or is intended to be sold or bartered, and

(iii) Aboriginal groups fishing in British Columbia as referred to in section 24;

(e) *Commission* means the International Pacific Halibut Commission;

(f) *Daily bag limit* means the maximum number of halibut a person may take in any calendar day from Convention waters;

(g) *Fishing* means the taking, harvesting, or catching of fish, or any activity that can reasonably be expected to result in the taking, harvesting, or catching of fish, including specifically the deployment of any amount or component part of setline gear anywhere in the maritime area;

(h) *Fishing period limit* means the maximum amount of halibut that may be retained and landed by a vessel during one fishing period;

(i) *Land* or *offload* with respect to halibut, means the removal of halibut from the catching vessel;

(j) *License* means a halibut fishing license issued by the Commission pursuant to section 4;

(k) *Maritime area*, in respect of the fisheries jurisdiction of a Contracting Party, includes without distinction areas within and seaward of the territorial sea and internal waters of that Party;

(l) *Net weight*, with respect to halibut, shall be based on halibut that is gutted, head-off, and without ice and slime;

(m) *Operator*, with respect to any vessel, means the owner and/or the master or other individual onboard and in charge of that vessel;

(n) *Overall length* of a vessel means the horizontal distance, rounded to the nearest foot, between the foremost part of the stem and the aftermost part of the stern (excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments);

(o) *Person* includes an individual, corporation, firm, or association;

(p) *Regulatory area* means an area referred to in section 6;

(q) *Setline gear* means one or more stationary, buoyed, and anchored lines with hooks attached;

(r) *Sport fishing* means all fishing other than

(i) Commercial fishing;

(ii) Treaty Indian ceremonial and subsistence fishing as referred to in section 22;

(iii) Customary and traditional fishing as referred to in section 23 and defined in and regulated pursuant to NMFS regulations published in 50 CFR part 300; and

(iv) Aboriginal groups fishing in British Columbia as referred to in section 24.

(s) *Tender* means any vessel that buys or obtains fish directly from a catching vessel and transports it to a port of landing or fish processor;

(t) *VMS transmitter* means a NMFS-approved vessel monitoring system transmitter that automatically determines a vessel's position and transmits it to a NMFS-approved communications service provider (Call NOAA Enforcement Division, Alaska Region, at 907–586–7225 between the hours of 0800 and 1600 local time for a list of NMFS-approved VMS transmitters and communications service providers.).

(2) In these Regulations, all bearings are true and all positions are determined by the most recent charts issued by the United States National Ocean Service or the Canadian Hydrographic Service.

4. Licensing Vessels for Area 2A

(1) No person shall fish for halibut from a vessel, nor possess halibut onboard a vessel, used either for commercial fishing or as a charter vessel in Area 2A, unless the Commission has issued a license valid for fishing in Area 2A in respect of that vessel.

(2) A license issued for a vessel operating in Area 2A shall be valid only for operating either as a charter vessel or a commercial vessel, but not both.

(3) A vessel with a valid Area 2A commercial license cannot be used to sport fish for Pacific halibut in Area 2A.

(4) A license issued for a vessel operating in the commercial fishery in Area 2A shall be valid for one of the following, but not both:

(a) The directed commercial fishery during the fishing periods specified in paragraph (2) of section 8 and the incidental commercial fishery during the sablefish fishery specified in paragraph (3) of section 8; or

(b) The incidental catch fishery during the salmon troll fishery specified in paragraph (4) of section 8.

(5) A license issued in respect of a vessel referred to in paragraph (1) of this section must be carried onboard that vessel at all times and the vessel operator shall permit its inspection by any authorized officer.

(6) The Commission shall issue a license in respect of a vessel, without fee, from its office in Seattle, Washington, upon receipt of a completed, written, and signed "Application for Vessel License for the Halibut Fishery" form.

(7) A vessel operating in the directed commercial fishery or the incidental commercial fishery during the sablefish fishery in Area 2A must have its "Application for Vessel License for the Halibut Fishery" form postmarked no later than 11:59 p.m. on April 30, or on the first weekday in May if April 30 is a Saturday or Sunday.

(8) A vessel operating in the incidental commercial fishery during the salmon troll season in Area 2A must have its "Application for Vessel License for the Halibut Fishery" form postmarked no later than 11:59 p.m. on March 31, or the first weekday in April if March 31 is a Saturday or Sunday.

(9) Application forms may be obtained from any authorized officer or from the Commission.

(10) Information on "Application for Vessel License for the Halibut Fishery" form must be accurate.

(11) The "Application for Vessel License for the Halibut Fishery" form shall be completed and signed by the vessel owner.

(12) Licenses issued under this section shall be valid only during the year in which they are issued.

(13) A new license is required for a vessel that is sold, transferred, renamed, or redocumented.

(14) The license required under this section is in addition to any license, however designated, that is required under the laws of the United States or any of its States.

(15) The United States may suspend, revoke, or modify any license issued under this section under policies and procedures in 15 CFR part 904.

5. In-Season Actions

(1) The Commission is authorized to establish or modify regulations during the season after determining that such action

(a) Will not result in exceeding the catch limit established preseason for each regulatory area;

(b) Is consistent with the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, and applicable domestic law of either Canada or the United States; and

(c) Is consistent, to the maximum extent practicable, with any domestic catch sharing plans or other domestic allocation programs developed by the United States or Canadian Governments.

(2) In-season actions may include, but are not limited to, establishment or modification of the following:

(a) Closed areas;

(b) Fishing periods;

(c) Fishing period limits;

(d) Gear restrictions;

(e) Recreational bag limits;

(f) Size limits; or

(g) Vessel clearances.

(3) In-season changes will be effective at the time and date specified by the Commission.

(4) The Commission will announce in-season actions under this section by providing notice to major halibut processors; Federal, State, United States treaty Indian, Provincial fishery officials, and the media.

6. Regulatory Areas

The following areas shall be regulatory areas (see Figure 1) for the purposes of the Convention:

(1) Area 2A includes all waters off the states of California, Oregon, and Washington;

(2) Area 2B includes all waters off British Columbia;

(3) Area 2C includes all waters off Alaska that are east of a line running 340° true from Cape Spencer Light (58°11′54″ N. lat., 136°38′24″ W. long.) and south and east of a line running 205° true from said light;

(4) Area 3A includes all waters between Area 2C and a line extending from the most northerly point on Cape Aklek (57°41′15″ N. lat., 155°35′00″ W. long.) to Cape Ikolik (57°17′17″ N. lat., 154°47′18″ W. long.), then along the Kodiak Island coastline to Cape Trinity (56°44′50″ N. lat., 154°08′44″ W. long.), then 140° true;

(5) Area 3B includes all waters between Area 3A and a line extending 150° true from Cape Lutke (54°29′00″ N. lat., 164°20′00″ W. long.) and south of 54°49′00″ N. lat. in Isanotski Strait;

(6) Area 4A includes all waters in the Gulf of Alaska west of Area 3B and in the Bering Sea west of the closed area defined in section 10 that are east of 172°00′00″ W. long. and south of 56°20′00″ N. lat.;

(7) Area 4B includes all waters in the Bering Sea and the Gulf of Alaska west of Area 4A and south of 56°20′00″ N. lat.;

(8) Area 4C includes all waters in the Bering Sea north of Area 4A and north of the closed area defined in section 10 which are east of 171°00′00″ W. long., south of 58°00′00″ N. lat., and west of 168°00′00″ W. long.;

(9) Area 4D includes all waters in the Bering Sea north of Areas 4A and 4B, north and west of Area 4C, and west of 168°00′00″ W. long.;

(10) Area 4E includes all waters in the Bering Sea north and east of the closed area defined in section 10, east of 168°00′00″ W. long., and south of 65°34′00″ N. lat.

7. Fishing in Regulatory Area 4E and 4D

(1) Section 7 applies only to any person fishing, or vessel that is used to fish for, Area 4E Community Development Quota (CDQ) or Area 4D CDQ halibut provided that the total annual halibut catch of that person or vessel is landed at a port within Area 4E or 4D.

(2) A person may retain halibut taken with setline gear in Area 4E CDQ and 4D CDQ fishery that are smaller than the size limit specified in section 13, provided that no person may sell or barter such halibut.

(3) The manager of a CDQ organization that authorizes persons to harvest halibut in the Area 4E or 4D CDQ fisheries must report to the Commission the total number and weight of undersized halibut taken and retained by such persons pursuant to section 7, paragraph (2). This report, which shall include data and methodology used to collect the data, must be received by the Commission prior to December 1 of the year in which such halibut were harvested.

8. Fishing Periods

(1) The fishing periods for each regulatory area apply where the catch limits specified in section 11 have not been taken.

(2) Each fishing period in the Area 2A directed fishery shall begin at 0800 hours and terminate at 1800 hours local time on June 27, July 11, July 25, August 8, August 22, September 5, and September 19 unless the Commission specifies otherwise. The directed fishery is restricted to waters that are south of Point Chehalis, Washington (46°53 18′ N. lat.) under regulations promulgated by NMFS and published in the **Federal Register**.

(3) Notwithstanding paragraph (7) of section 11, an incidental catch fishery is authorized during the sablefish seasons in Area 2A in accordance with regulations promulgated by NMFS. The incidental fishery during the directed, fixed gear sablefish season is restricted to waters that are north of Point Chehalis, Washington (46°53 18′ N. lat.) and published in the **Federal Register**.

(4) Notwithstanding paragraph (2), and paragraph (7) of section 11, an incidental catch fishery is authorized during salmon troll seasons in Area 2A in accordance with regulations promulgated by NMFS.

(5) The fishing period in Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E shall begin at 1200 hours local time on March 10 and terminate at 1200 hours local time on November 15, unless the Commission specifies otherwise.

(6) All commercial fishing for halibut in Areas 2A, 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E shall cease at 1200 hours local time on November 15.

9. Closed Periods

(1) No person shall engage in fishing for halibut in any regulatory area other than during the fishing periods set out in section 8 in respect of that area.

(2) No person shall land or otherwise retain halibut caught outside a fishing period applicable to the regulatory area where the halibut was taken.

(3) Subject to paragraphs (7), (8), (9), and (10) of section 19, these Regulations do not prohibit fishing for any species of fish other than halibut during the closed periods.

(4) Notwithstanding paragraph (3), no person shall have halibut in his/her possession while fishing for any other species of fish during the closed periods.

(5) No vessel shall retrieve any halibut fishing gear during a closed period if the vessel has any halibut onboard.

(6) A vessel that has no halibut onboard may retrieve any halibut fishing gear during the closed period after the operator notifies an authorized officer or representative of the Commission prior to that retrieval.

(7) After retrieval of halibut gear in accordance with paragraph (6), the vessel shall submit to a hold inspection at the discretion of the authorized officer or representative of the Commission.

(8) No person shall retain any halibut caught on gear retrieved referred to in paragraph (6).

(9) No person shall possess halibut aboard a vessel in a regulatory area during a closed period unless that vessel is in continuous transit to or within a port in which that halibut may be lawfully sold.

10. Closed Area

All waters in the Bering Sea north of 55°00′00″ N. lat. in Isanotski Strait that are enclosed by a line from Cape Sarichef Light (54°36′0″ N. lat., 164°55′42″ W. long.) to a point at 56°20′00″ N. lat., 168°30′00″ W. long.; thence to a point at 58°21′25″ N. lat., 163°00′00″ W. long.; thence to Strogonof Point (56°53′18″ N. lat., 158°50′37″ W. long.); and then along the northern coasts of the Alaska Peninsula and Unimak Island to the point of origin at Cape Sarichef Light are closed to halibut fishing and no person shall fish for halibut therein or have halibut in his/her possession while in those waters except in the course of a continuous transit across those waters. All waters in Isanotski Strait between 55°00′00″ N. lat. and 54°49′00″ N. lat. are closed to halibut fishing.

11. Catch Limits

(1) The total allowable catch of halibut to be taken during the halibut fishing periods specified in section 8 shall be limited to the net weights expressed in pounds or metric tons shown in the following table:

Regulatory Area	Catch Limit	
	Pounds	Metric tons
2A: directed commercial, and incidental commercial during salmon troll fishery	268,182	121.6
2A: incidental commercial during sablefish fishery	70,000	31.8
2B[1]	11,470,000	5,201.8
2C	8,510,000	3,859.4
3A	26,200,000	11,882.1
3B	9,220,000	4,181.4
4A	2,890,000	1,310.7
4B	1,440,000	653.1
4C	1,866,500	846.5
4D	1,866,500	846.5
4E	367,000	166.4

[1] Area 2B includes combined commercial and sport catch limits which will be allocated by DFO.

(2) Notwithstanding paragraph (1), regulations pertaining to the division of the Area 2A catch limit between the directed commercial fishery and the incidental catch fishery as described in paragraph (4) of section 8 will be promulgated by NMFS and published in the **Federal Register**.

(3) The Commission shall determine and announce to the public the date on which the catch limit for Area 2A will be taken.

(4) Notwithstanding paragraph (1), Area 2B will close only when all Individual Vessel Quotas (IVQs) assigned by DFO are taken, or November 15, whichever is earlier.

(5) Notwithstanding paragraph (1), Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E will each close only when all IFQs and all CDQs issued by NMFS have been taken, or November 15, whichever is earlier.

(6) If the Commission determines that the catch limit specified for Area 2A in paragraph (1) would be exceeded in an unrestricted 10-hour fishing period as specified in paragraph (2) of section 8, the catch limit for that area shall be considered to have been taken unless fishing period limits are implemented.

(7) When under paragraphs (2), (3), and (6) the Commission has announced a date on which the catch limit for Area 2A will be taken, no person shall fish for halibut in that area after that date for the rest of the year, unless the Commission has announced the reopening of that area for halibut fishing.

(8) Notwithstanding paragraph (1), the total allowable catch of halibut that may be taken in the Area 4E directed commercial fishery is equal to the combined annual catch limits specified for the Area 4D and Area 4E CDQ fisheries. The annual Area 4D CDQ catch limit will decrease by the equivalent amount of halibut CDQ taken in Area 4E in excess of the annual Area 4E CDQ catch limit.

(9) Notwithstanding paragraph (1), the total allowable catch of halibut that may be taken in the Area 4D directed commercial fishery is equal to the combined annual catch limits specified for Area 4C and Area 4D. The annual Area 4C catch limit will decrease by the equivalent amount of halibut taken in Area 4D in excess of the annual Area 4D catch limit.

12. Fishing Period Limits

(1) It shall be unlawful for any vessel to retain more halibut than authorized by that vessel's license in any fishing period for which the Commission has announced a fishing period limit.

(2) The operator of any vessel that fishes for halibut during a fishing period when fishing period limits are in effect must, upon commencing an offload of halibut to a commercial fish processor, completely offload all halibut onboard

said vessel to that processor and ensure that all halibut is weighed and reported on State fish tickets.

(3) The operator of any vessel that fishes for halibut during a fishing period when fishing period limits are in effect must, upon commencing an offload of halibut other than to a commercial fish processor, completely offload all halibut onboard said vessel and ensure that all halibut are weighed and reported on State fish tickets.

(4) The provisions of paragraph (3) are not intended to prevent retail over-the-side sales to individual purchasers so long as all the halibut onboard is ultimately offloaded and reported.

(5) When fishing period limits are in effect, a vessel's maximum retainable catch will be determined by the Commission based on

(a) The vessel's overall length in feet and associated length class;

(b) The average performance of all vessels within that class; and

(c) The remaining catch limit.

(6) Length classes are shown in the following table:

Overall Length, in feet (m)	Vessel Class
1–25 (0.3–7.6)	A
26–30 (7.9–9.1)	B
31–35 (9.4–10.7)	C
36–40 (11.0–12.2)	D
41–45 (12.5–13.7)	E
46–50 (14.0–15.2)	F
51–55 (15.5–16.8)	G
56+ (17.1+)	H

(7) Fishing period limits in Area 2A apply only to the directed halibut fishery referred to in paragraph (2) of section 8.

13. Size Limits

(1) No person shall take or possess any halibut that

(a) With the head on, is less than 32 inches (81.3 cm) as measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with the mouth closed, to the extreme end of the middle of the tail, as illustrated in Figure 2; or

(b) With the head removed, is less than 24 inches (61.0 cm) as measured from the base of the pectoral fin at its most anterior point to the extreme end of the middle of the tail, as illustrated in Figure 2.

(2) No person onboard a vessel fishing for, or tendering, halibut caught in Area 2A shall possess any halibut that has had its head removed.

14. Careful Release of Halibut

(1) All halibut that are caught and are not retained shall be immediately released outboard of the roller and returned to the sea with a minimum of injury by

(a) Hook straightening;

(b) Cutting the gangion near the hook; or

(c) Carefully removing the hook by twisting it from the halibut with a gaff.

(2) Except that paragraph (1) shall not prohibit the possession of halibut onboard a vessel that has been brought aboard to be measured to determine if the minimum size limit ofthe halibut is met and, if sublegal-sized, is promptly returned to the sea with a minimum of injury.

15. Vessel Clearance in Area 4

(1) The operator of any vessel that fishes for halibut in Areas 4A, 4B, 4C, or 4D must obtain a vessel clearance before fishing in any of these areas, and before the landing of any halibut caught in any of these areas, unless specifically exempted in paragraphs (10), (13), (14), (15) or (16).

(2) An operator obtaining a vessel clearance required by paragraph (1) must obtain the clearance in person from the authorized clearance personnel and sign the IPHC form documenting that a clearance was obtained, except that when the clearance is obtained via VHF radio referred to in paragraphs (5), (8), and (9), the authorized clearance personnel must sign the IPHC form documenting that the clearance was obtained.

(3) The vessel clearance required under paragraph (1) prior to fishing in Area 4A may be obtained only at Nazan Bay on Atka Island, Dutch Harbor or Akutan, Alaska, from an authorized officer of the United States, a representative of the Commission, or a designated fish processor.

(4) The vessel clearance required under paragraph (1) prior to fishing in Area 4B may only be obtained at Nazan Bay on Atka Island or Adak, Alaska, from an authorized officer of the United States, a representative of the Commission, or a designated fish processor.

(5) The vessel clearance required under paragraph (1) prior to fishing in Area 4C and 4D may be obtained only at St. Paul or St. George, Alaska, from an authorized officer of the United States, a representative of the Commission, or a designated fish processor by VHF radio and allowing the person contacted to confirm visually the identity of the vessel.

(6) The vessel operator shall specify the specific regulatory area in which fishing will take place.

(7) Before unloading any halibut caught in Area 4A, a vessel operator may obtain the clearance required under paragraph (1) only in Dutch Harbor or Akutan, Alaska, by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor.

(8) Before unloading any halibut caught in Area 4B, a vessel operator may obtain the clearance required under paragraph (1) only in Nazan Bay on Atka Island or Adak, by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor by VHF radio or in person.

(9) Before unloading any halibut caught in Area 4C and 4D, a vessel operator may obtain the clearance required under paragraph (1) only in St. Paul, St. George, Dutch Harbor, or Akutan, Alaska, either in person or by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor. The clearances obtained in St. Paul or St. George, Alaska, can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel.

(10) Any vessel operator who complies with the requirements in section 18 for possessing halibut onboard a vessel that was caught in more than one regulatory area in Area 4 is exempt from the clearance requirements of paragraph (1) of this section, provided that

(a) The operator of the vessel obtains a vessel clearance prior to fishing in Area 4 in either Dutch Harbor, Akutan, St. Paul, St. George, Adak, or Nazan Bay on Atka Island by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor. The clearance obtained in St. Paul, St. George, Adak, or Nazan Bay on Atka Island can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel. This clearance will list the Areas in which the vessel will fish; and

(b) Before unloading any halibut from Area 4, the vessel operator obtains a vessel clearance from Dutch Harbor, Akutan, St. Paul, St. George, Adak, or Nazan Bay on Atka Island by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor. The clearance obtained in St. Paul or St. George can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel. The clearance obtained in Adak or Nazan Bay on Atka Island can be obtained by VHF radio.

(11) Vessel clearances shall be obtained between 0600 and 1800 hours, local time.

(12) No halibut shall be onboard the vessel at the time of the clearances required prior to fishing in Area 4.

(13) Any vessel that is used to fish for halibut only in Area 4A and lands its total annual halibut catch at a port within Area 4A is exempt from the clearance requirements of paragraph (1).

(14) Any vessel that is used to fish for halibut only in Area 4B and lands its total annual halibut catch at a port within Area 4B is exempt from the clearance requirements of paragraph (1).

(15) Any vessel that is used to fish for halibut only in Areas 4C or 4D or 4E and lands its total annual halibut catch at a port within Areas 4C, 4D, 4E, or the closed area defined in section 10, is exempt from the clearance requirements of paragraph (1).

(16) Any vessel that carries a transmitting VMS transmitter while fishing for halibut in Area 4A, 4B, 4C, or 4D and until all halibut caught in any of these areas is landed is exempt from the clearance requirements of paragraph (1) of this section, provided that

(a) The operator of the vessel complies with NMFS' vessel monitoring system regulations published at 50 CFR sections 679.28(f)(3), (4) and (5); and

(b) The operator of the vessel notifies NOAA Fisheries Office for Law Enforcement at 800–304–4846 (select option 1 to speak to an Enforcement Data Clerk) between the hours of 0600 and 0000 (midnight) local time within 72 hours before fishing for halibut in Area 4A, 4B, 4C, or 4D and receives a VMS confirmation number.

16. Logs

(1) The operator of any U.S. vessel fishing for halibut that has an overall length of 26 ft (7.9 m) or greater shall maintain an accurate log of halibut fishing operations in the Groundfish/IFQ Daily Fishing Longline and Pot Gear Logbook provided by NMFS, or Alaska hook-and-line logbook provided by Petersburg Vessel Owners Association or Alaska Longline Fisherman's Association, or the Alaska Department of Fish and Game (ADF&G) longline-pot logbook, or the logbook provided by IPHC.

(2) The logbook referred to in paragraph (1) must include the following information:

(a) The name of the vessel and the state (ADF&G, WDFW, Oregon Department of Fish and Wildlife, or California Department of Fish and Game) vessel number;

(b) The date(s) upon which the fishing gear is set or retrieved;

(c) The latitude and longitude or loran coordinates or a direction and distance from a point of land for each set or day;

(d) The number of skates deployed or retrieved, and number of skates lost; and

(e) The total weight or number of halibut retained for each set or day.

(3) The logbook referred to in paragraph (1) shall be

(a) Maintained onboard the vessel;

(b) Updated not later than 24 hours after midnight local time for each day fished and prior to the offloading or sale of halibut taken during that fishing trip;

(c) Retained for a period of two years by the owner or operator of the vessel;

(d) Open to inspection by an authorized officer or any authorized representative of the Commission upon demand; and

(e) Kept onboard the vessel when engaged in halibut fishing, during transits to port of landing, and until the offloading of all halibut is completed.

(4) The log referred to in paragraph (1) does not apply to the incidental halibut fishery during the salmon troll season in Area 2A defined in paragraph (4) of section 8.

(5) The operator of any Canadian vessel fishing for halibut shall maintain an accurate log recorded in the British Columbia Integrated Groundfish Fishing Log provided by DFO.

(6) The logbook referred to in paragraph (5) must include the following information:

(a) The name of the vessel and the DFO vessel number;

(b) The date(s) upon which the fishing gear is set or retrieved;

(c) The latitude and longitude or loran coordinates or a direction and distance from a point of land for each set or day;

(d) The number of skates deployed or retrieved, and number of skates lost; and

(e) The total weight or number of halibut retained for each set or day.

(7) The logbook referred to in paragraph (5) shall be

(a) Maintained onboard the vessel;

(b) Retained for a period of two years by the owner or operator of the vessel;

(c) Open to inspection by an authorized officer or any authorized representative of the Commission upon demand;

(d) Kept onboard the vessel when engaged in halibut fishing, during transits to port of landing, and until the offloading of all halibut is completed;

(e) Mailed to the DFO (white copy) within seven days of offloading; and

(f) Mailed to the Commission (yellow copy) within seven days of the final offload if not collected by a Commission employee.

(8) No person shall make a false entry in a log referred to in this section.

17. Receipt and Possession of Halibut

(1) No person shall receive halibut from a United States vessel that does not have onboard the license required by section 4.

(2) No person shall possess onboard a vessel a halibut other than whole or with gills and entrails removed. Except that this paragraph shall not prohibit the possession onboard a vessel:

(a) Halibut cheeks cut from halibut caught by persons authorized to process the halibut onboard in accordance with NMFS regulations published at 50 CFR part 679;

(b) Fillets from halibut that have been offloaded in accordance with section 17 may be possessed onboard the harvesting vessel in the port of landing up to 1800 hours local time on the calendar day following the offload (DFO has more restrictive regulations therefore section 17(2)b does not apply to fish caught in Area 2B or landed in British Columbia); and

(c) Halibut with their heads removed in accordance with section 13.

(3) No person shall offload halibut from a vessel unless the gills and entrails have been removed prior to offloading (DFO did not adopt this regulation therefore section 17 paragraph 3 does not apply to fish caught in Area 2B).

(4) It shall be the responsibility of a vessel operator who lands halibut to continuously and completely offload at a single offload site all halibut onboard the vessel.

(5) A registered buyer (as that term is defined in regulations promulgated by NMFS and codified at 50 CFR part 679) who receives halibut harvested in IFQ and CDQ fisheries in Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E, directly from the vessel operator that harvested such halibut must weigh all the halibut received and record the following information on Federal catch reports: date of offload; name of vessel; vessel number; scale weight obtained at the time of offloading, including the weight (in pounds) of halibut purchased by the registered buyer, the weight (in pounds) of halibut offloaded in excess of the IFQ or CDQ, the weight of halibut (in pounds) retained for personal use or for future sale, and the weight (in pounds) of halibut discarded as unfit for human consumption.

(6) The first recipient, commercial fish processor, or buyer in the United States who purchases or receives halibut directly from the vessel operator that harvested such halibut must weigh and record all halibut received and record the following information on state fish tickets: the date of offload, vessel

number, total weight obtained at the time of offload including the weight (in pounds) of halibut purchased, the weight (in pounds) of halibut offloaded in excess of the IFQ, CDQ, or fishing period limits, the weight of halibut (in pounds) retained for personal use or for future sale, and the weight (in pounds) of halibut discarded as unfit for human consumption.

(7) The individual completing the state fish tickets for the Area 2A fisheries as referred to in paragraph (6) must additionally record whether the halibut weight is of head-on or head-off fish.

(8) For halibut landings made in Alaska, the requirements as listed in paragraph (5) and (6) can be met by recording the information in the Interagency Electronic Reporting Systems, eLandings.

(9) The master or operator of a Canadian vessel that was engaged in halibut fishing must weigh and record all halibut onboard said vessel at the time offloading commences and record on Provincial fish tickets or Federal catch reports the date, locality, name of vessel, the name(s) of the person(s) from whom the halibut was purchased; and the scale weight obtained at the time of offloading of all halibut onboard the vessel including the pounds purchased; pounds in excess of IVQs; pounds retained for personal use; and pounds discarded as unfit for human consumption.

(10) No person shall make a false entry on a State or Provincial fish ticket or a Federal catch or landing report referred to in paragraphs (5), (6), and (9) of section 17.

(11) A copy of the fish tickets or catch reports referred to in paragraphs (5), (6), and (9) shall be

(a) Retained by the person making them for a period of three years from the date the fish tickets or catch reports are made; and

(b) Open to inspection by an authorized officer or any authorized representative of the Commission.

(12) No person shall possess any halibut taken or retained in contravention of these Regulations.

(13) When halibut are landed to other than a commercial fish processor the records required by paragraph (6) shall be maintained by the operator of the vessel from which that halibut was caught, in compliance with paragraph (9).

(14) It shall be unlawful to enter an IPHC license number on a State fish ticket for any vessel other than the vessel actually used in catching the halibut reported thereon.

18. Fishing Multiple Regulatory Areas

(1) Except as provided in this section, no person shall possess at the same time onboard a vessel halibut caught in more than one regulatory area.

(2) Halibut caught in more than one of the Regulatory Areas 2C, 3A, or 3B may be possessed onboard a vessel at the same time providing the operator of the vessel:

(a) Has a NMFS-certified observer onboard when required by NMFS regulations published at 50 CFR 679.7(f)(4); (Note: Without an observer, a vessel cannot have onboard more halibut than the IFQ for the area that is being fished even if some of the catch occurred earlier in a different area.) and

(b) Can identify the regulatory area in which each halibut onboard was caught by separating halibut from different areas in the hold, tagging halibut, or by other means.

(3) Halibut caught in more than one of the Regulatory Areas 4A, 4B, 4C, or 4D may be possessed onboard a vessel at the same time providing the operator of the vessel:

(a) Has a NMFS-certified observer onboard the vessel when halibut caught in different regulatory areas are onboard; and

(b) Can identify the regulatory area in which each halibut onboard was caught by separating halibut from different areas in the hold, tagging halibut, or by other means.

(4) Halibut caught in Regulatory Areas 4A, 4B, 4C, and 4D may be possessed onboard a vessel when in compliance with paragraph (3) and if halibut from Area 4 are onboard the vessel, the vessel can have halibut caught in Regulatory Areas 2C, 3A, and 3B onboard if in compliance with paragraph (2).

19. Fishing Gear

(1) No person shall fish for halibut using any gear other than hook and line gear, except that vessels licensed to catch sablefish in Area 2B using sablefish trap gear as defined in the Condition of Sablefish Licence can retain halibut caught as bycatch under regulations promulgated by the Canadian Department of Fisheries and Oceans.

(2) No person shall possess halibut taken with any gear other than hook and line gear, except that vessels licensed to catch sablefish in Area 2B using sablefish trap gear as defined by the Condition of Sablefish Licence can retain halibut caught as bycatch under regulations promulgated by the Canadian Department of Fisheries and Oceans.

(3) No person shall possess halibut while onboard a vessel carrying any trawl nets or fishing pots capable of catching halibut, except that in Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E, halibut heads, skin, entrails, bones or fins for use as bait may be possessed onboard a vessel carrying pots capable of catching halibut, provided that a receipt documenting purchase or transfer of these halibut parts is onboard the vessel.

(4) All setline or skate marker buoys carried onboard or used by any United States vessel used for halibut fishing shall be marked with one of the following:

(a) The vessel's state license number; or

(b) The vessel's registration number.

(5) The markings specified in paragraph (4) shall be in characters at least four inches in height and one-half inch in width in a contrasting color visible above the water and shall be maintained in legible condition.

(6) All setline or skate marker buoys carried onboard or used by a Canadian vessel used for halibut fishing shall be

(a) Floating and visible on the surface of the water; and

(b) Legibly marked with the identification plate number of the vessel engaged in commercial fishing from which that setline is being operated.

(7) No person onboard a vessel from which setline gear was used to fish for any species of fish anywhere in Area 2A during the 72-hour period immediately before the opening of a halibut fishing period shall catch or possess halibut anywhere in those waters during that halibut fishing period.

(8) No vessel from which setline gear was used to fish for any species of fish anywhere in Area 2A during the 72-hour period immediately before the opening of a halibut fishing period may be used to catch or possess halibut anywhere in those waters during that halibut fishing period.

(9) No person onboard a vessel from which setline gear was used to fish for any species of fish anywhere in Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E during the 72-hour period immediately before the opening of the halibut fishing season shall catch or possess halibut anywhere in those areas until the vessel has removed all of its setline gear from the water and has either

(a) Made a landing and completely offloaded its entire catch of other fish; or

(b) Submitted to a hold inspection by an authorized officer.

(10) No vessel from which setline gear was used to fish for any species of fish anywhere in Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E during the 72-hour period immediately before the opening

of the halibut fishing season may be used to catch or possess halibut anywhere in those areas until the vessel has removed all of its setline gear from the water and has either

(a) Made a landing and completely offloaded its entire catch of other fish; or

(b) Submitted to a hold inspection by an authorized officer.

(11) Notwithstanding any other provision in these regulations, a person may retain, possess and dispose of halibut taken with trawl gear only as authorized by Prohibited Species Donation regulations of NMFS.

20. Supervision of Unloading and Weighing

The unloading and weighing of halibut may be subject to the supervision of authorized officers to assure the fulfillment of the provisions of these Regulations.

21. Retention of Tagged Halibut

(1) Nothing contained in these Regulations prohibits any vessel at any time from retaining and landing a halibut that bears a Commission external tag at the time of capture, if the halibut with the tag still attached is reported at the time of landing and made available for examination by a representative of the Commission or by an authorized officer.

(2) After examination and removal of the tag by a representative of the Commission or an authorized officer, the halibut

(a) May be retained for personal use; or

(b) May be sold only if the halibut is caught during commercial halibut fishing and complies with the other commercial fishing provisions of these regulations.

(3) Externally tagged fish must count against commercial IVQs, CDQs, IFQs, or daily bag or possession limits unless otherwise exempted by state, provincial, or Federal regulations.

22. Fishing by United States Treaty Indian Tribes

(1) Halibut fishing in subarea 2A–1 by members of United States treaty Indian tribes located in the State of Washington shall be regulated under regulations promulgated by NMFS and published in the **Federal Register**.

(2) Subarea 2A–1 includes all waters off the coast of Washington that are north of 46°53′18″N. lat. and east of 125°44′00″W. long., and all inland marine waters of Washington.

(3) Section 13 (size limits), section 14 (careful release of halibut), section 16 (logs), section 17 (receipt and possession of halibut) and section 19 (fishing gear), except paragraphs (7) and (8) of section 19, apply to commercial fishing for halibut in subarea 2A–1 by the treaty Indian tribes.

(4) Commercial fishing for halibut in subarea 2A–1 is permitted with hook and line gear from March 10 through November 15, or until 461,000 lb (209.1 mt) net weight is taken, whichever occurs first.

(5) Ceremonial and subsistence fishing for halibut in subarea 2A–1 is permitted with hook and line gear from January 1 through December 31, and is estimated to take 33,000 lb (15.0 mt) net weight.

23. Customary and Traditional Fishing in Alaska

(1) Customary and traditional fishing for halibut in Regulatory Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E shall be governed pursuant to regulations promulgated by the National Marine Fisheries Service and published in 50 CFR part 300.

(2) Customary and traditional fishing is authorized from January 1 through December 31.

24. Aboriginal Groups Fishing for Food, Social, and Ceremonial Purposes in British Columbia

(1) Fishing for halibut for food, social, and ceremonial purposes by Aboriginal groups in Regulatory Area 2B shall be governed by the Fisheries Act of Canada and regulations as amended from time to time.

25. Sport Fishing for Halibut

(1) No person shall engage in sport fishing for halibut using gear other than a single line with no more than two hooks attached; or a spear.

(2) In all waters off Alaska

(a) The sport fishing season is from February 1 to December 31;

(b) The daily bag limit is two halibut of any size per day per person.

(3) In all waters off British Columbia

(a) The sport fishing season is from February 1 to December 31;

(b) The daily bag limit is two halibut of any size per day per person.

(4) In all waters off California, Oregon, and Washington

(a) The total allowable catch of halibut shall be limited to

(i) 239,636 lb (108.7 mt) net weight in waters off Washington; and

(ii) 268,182 lb (121.6 mt) net weight in waters off California and Oregon.

(b) The sport fishing subareas, subquotas, fishing dates, and daily bag limits are as follows, except as modified under the inseason actions authorized at 50 CFR 300.63 (c). All sport fishing in Area 2A is managed on a "port of landing" basis, whereby any halibut landed into a port counts toward the quota for the area in which that port is located, and the regulations governing the area of landing apply, regardless of the specific area of catch.

(i) The area in Puget Sound and the U.S. waters in the Strait of Juan de Fuca, east of a line extending from 48°17.30′ N. lat., 124°23.70′ W. long. north to 48°24.10′ N. lat., 124°23.70′ W. long., is not managed inseason relative to its quota. This area is managed by setting a season that is projected to result in a catch of 65,562 lb (29.7 mt).

(A) The fishing season in eastern Puget Sound (east of 123°49.50′ W. long., Low Point) is April 9 through June 16 and the fishing season in western Puget Sound (west of 123°49.50′ W. long., Low Point) is May 24 through August 3, 5 days a week (Thursday through Monday).

(B) The daily bag limit is one halibut of any size per day per person.

(ii) The quota for landings into ports in the area off the north Washington coast, west of the line described in paragraph (4)(b)(i) of this section and north of the Queets River (47°31.70′ N. lat.), is 116,199 lb (52.7 mt).

(A) The fishing seasons are

(*1*) Commencing on May 15 and continuing 3 days a week (Tuesday, Thursday, and Saturday) until 83,663 lb (37.9 mt) are estimated to have been taken and the season is closed by the Commission.

(*2*) On June 19 and 21, the fishery will open only in the nearshore areas defined at the end of this paragraph. The fishery will open for one day on June 23 in the entire north coast subarea. If sufficient quota remains, the fishery would reopen, as a first priority, in the entire north coast subarea for one day on June 28. If there is insufficient quota remaining to reopen the entire north coast subarea on June 28, then the nearshore areas described below would reopen on June 28, up to four days per week (Thursday-Sunday), until the overall quota of 116,199 lb (52.7 mt) are estimated to have been taken and the area is closed by the Commission, or until September 30, whichever is earlier. After June 23, any fishery opening will be announced on the NMFS hotline at 800–662–9825. No halibut fishing will be allowed after June 23 unless the date is announced on the NMFS hotline. The nearshore areas for Washington's North Coast fishery are defined as follows:

(*a*) WDFW Marine Catch Area 4B, which is all waters west of the Sekiu River mouth, as defined by a line extending from 48°17.30′ N. lat.,

124°23.70′ W. long. north to 48°24.10′ N. lat., 124°23.70′ W. long., to the Bonilla-Tatoosh line, as defined by a line connecting the light on Tatoosh Island, WA, with the light on Bonilla Point on Vancover Island, British Columbia (at 48°35.73′ N. lat., 124°43.00′ W. long.) south of the International Boundary between the U.S. and Canada (at 48°29.62′ N.lat., 124°43.55′ W.long.), and north of the point where that line intersects with the boundary of the U.S. territorial sea.

(*b*) Shoreward of the recreational halibut 30–fm boundary line, a modified line approximating the 30 fm (55 m) depth contour from the Bonilla-Tatoosh line south to the Queets River, as defined by straight lines connecting all of the following points in the order stated:

(1) 48°24.79′ N. lat., 124°44.07′ W. long.;
(2) 48°24.80′ N. lat., 124°44.74′ W. long.;
(3) 48°23.94′ N. lat., 124°44.70′ W. long.;
(4) 48°23.51′ N. lat., 124°45.01′ W. long.;
(5) 48°22.59′ N. lat., 124°44.97′ W. long.;
(6) 48°21.75′ N. lat., 124°45.26′ W. long.;
(7) 48°21.23′ N. lat., 124°47.78′ W. long.;
(8) 48°20.32′ N. lat., 124°49.53′ W. long.;
(9) 48°16.72′ N. lat., 124°51.58′ W. long.;
(10) 48°10.00′ N. lat., 124°52.58′ W. long.;
(11) 48°05.63′ N. lat., 124°52.91′ W. long.;
(12) 47°53.37′ N. lat., 124°47.37′ W. long.;
(13) 47°40.28′ N. lat., 124°40.07′ W. long.; and
(14) 47°31.70′ N. lat., 124°37.03′ W. long.

(B) The daily bag limit is one halibut of any size per day per person.

(C) Recreational fishing for groundfish and halibut is prohibited within the North Coast Recreational Yelloweye Rockfish Conservation Area (YRCA). It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the North Coast Recreational YRCA. A vessel fishing in the North Coast Recreational YRCA may not be in possession of any halibut. Recreational vessels may transit through the North Coast Recreational YRCA with or without halibut onboard. The North Coast Recreational YRCA is a C-shaped area off the northern Washington coast intended to protect yelloweye rockfish. The North Coast Recreational YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

(1) 48°18.00′ N. lat.; 125°18.00′ W. long.;
(2) 48°18.00′ N. lat.; 124°59.00′ W. long.;
(3) 48°11.00′ N. lat.; 124°59.00′ W. long.;
(4) 48°11.00′ N. lat.; 125°11.00′ W. long.;
(5) 48°04.00′ N. lat.; 125°11.00′ W. long.;
(6) 48°04.00′ N. lat.; 124°59.00′ W. long.;
(7) 48°00.00′ N. lat.; 124°59.00′ W. long.;
(8) 48°00.00′ N. lat.; 125°18.00′ W. long.;

and connecting back to 48°18.00′ N. lat.; 125°18.00′ W. long.

(iii) The quota for landings into ports in the area between the Queets River, Washington, (47°31.70′ N. lat.) and Leadbetter Point, Washington, (46°38.17′ N. lat.), is 50,907 lb (23 mt).

(A) The fishing season commences on May 1 and continues 5 days a week (Sunday through Thursday) in all waters, except that in the area from 47°25.00′ N. lat. south to 46°58.00′ N. lat. and east of 124°30.00′ W. long. (the Washington South coast, northern nearshore area), the fishing season commences on May 1 and continues 7 days a week. The south coast subarea quota will be allocated as follows: 48,362 lb (22 mt), 95 percent, for the primary fishery, and 2,545 lb (1.2 mt), 5 percent, for the northern nearshore fishery, once the primary fishery has closed. The primary fishery will continue from May 1 until 48,362 lb (22 mt) are estimated to have been taken and the season is closed by the Commission, or until September 30, whichever is earlier. Subsequent to this closure, if there is insufficient quota remaining to reopen the primary fishery for another fishing day, then any remaining quota may be used to accommodate incidental catch in the northern nearshore area from 47°25.00′ N. lat. south to 46°58.00′ N. lat. and east of 124°30.00′ W. long. on Fridays and Saturdays, until 50,907 lb (23 mt) is projected to be taken and the fishery is closed by the Commission. No fishing is allowed after the closure of the primary fishery unless openings are announced on the NMFS hotline at 800–662–9825. If the fishery is closed prior to September 30, and there is insufficient quota remaining to reopen the northern nearshore area for another fishing day, then any remaining quota may be transferred inseason to another Washington coastal subarea by NMFS via an update to the recreational halibut hotline.

(B) The daily bag limit is one halibut of any size per day per person.

(C) Recreational fishing for groundfish and halibut is prohibited within the South Coast Recreational YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the South Coast Recreational YRCA. A vessel fishing in the South Coast Recreational YRCA may not be in possession of any halibut. Recreational vessels may transit through the South Coast Recreational YRCA with or without halibut onboard. The South Coast Recreational YRCA is an area off the southern Washington coast intended to protect yelloweye rockfish. The South Coast Recreational YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

(1) 46°58.00′ N. lat., 124°48.00′ W. long.;
(2) 46°55.00′ N. lat., 124°48.00′ W. long.;
(3) 46°58.00′ N. lat., 124°49.00′ W. long.;
(4) 46°55.00′ N. lat., 124°49.00′ W. long.;

and connecting back to 46°58.00′ N. lat., 124°48.00′ W. long.

(iv) The quota for landings into ports in the area between Leadbetter Point, Washington, (46°38.17′ N. lat.) and Cape Falcon, Oregon, (45°46.00′ N. lat.), is 20,378 lb (9.2 mt).

(A) The fishing season commences on May 1, and continues 7 days a week until 14,264 lb (6.5 mt) are estimated to have been taken and the season is closed by the Commission or until July 15, whichever is earlier. The fishery will reopen on August 3 and continue 3 days a week (Friday through Sunday) until 20,378 lb (9.2 mt) have been taken and the season is closed by the Commission, or until September 30, whichever is earlier. Subsequent to this closure, if there is insufficient quota remaining in the Columbia River subarea for another fishing day, then any remaining quota may be transferred inseason to another Washington and/or Oregon subarea by NMFS via an update to the recreational halibut hotline. Any remaining quota would be transferred to each state in proportion to its contribution.

(B) The daily bag limit is one halibut of any size per day per person.

(C) Pacific Coast groundfish may not be taken and retained, possessed or landed, except sablefish and Pacific cod when allowed by Pacific Coast groundfish regulations, if halibut are onboard the vessel.

(v) The quota for landings into ports in the area off Oregon between Cape Falcon (45°46.00′ N. lat.) and Humbug Mountain (42°40.50′ N. lat.), is 246,727 lb (111.9 mt).

(A) The fishing seasons are

(*1*) The first season (the "inside 40–fm" fishery) commences May 1 and continues 7 days a week through October 31, in the area shoreward of a boundary line approximating the 40–fm (73–m) depth contour, or until the subquota for the central Oregon "inside 40–fm" fishery (19,738 lb (8.6 mt)) or any inseason revised subquota is estimated to have been taken and the season is closed by the Commission, whichever is earlier. The boundary line approximating the 40–fm (73–m) depth contour between 45°46.00′ N. lat. and 42°40.50′ N. lat. is defined by straight lines connecting all of the following points in the order stated:

(1) 45°46.00′ N. lat., 124°04.49′ W. long.;
(2) 45°44.34′ N. lat., 124°05.09′ W. long.;
(3) 45°40.64′ N. lat., 124°04.90′ W. long.;
(4) 45°33.00′ N. lat., 124°04.46′ W. long.;
(5) 45°32.27′ N. lat., 124°04.74′ W. long.;
(6) 45°29.26′ N. lat., 124°04.22′ W. long.;
(7) 45°20.25′ N. lat., 124°04.67′ W. long.;
(8) 45°19.99′ N. lat., 124°04.62′ W. long.;
(9) 45°17.50′ N. lat., 124°04.91′ W. long.;
(10) 45°11.29′ N. lat., 124°05.20′ W. long.;
(11) 45°05.80′ N. lat., 124°05.40′ W. long.;
(12) 45°05.08′ N. lat., 124°05.93′ W. long.;
(13) 45°03.83′ N. lat., 124°06.47′ W. long.;
(14) 45°01.70′ N. lat., 124°06.53′ W. long.;
(15) 44°58.75′ N. lat., 124°07.14′ W. long.;
(16) 44°51.28′ N. lat., 124°10.21′ W. long.;
(17) 44°49.49′ N. lat., 124°10.90′ W. long.;
(18) 44°44.96′ N. lat., 124°14.39′ W. long.;
(19) 44°43.44′ N. lat., 124°14.78′ W. long.;
(20) 44°42.26′ N. lat., 124°13.81′ W. long.;
(21) 44°41.68′ N. lat., 124°15.38′ W. long.;
(22) 44°34.87′ N. lat., 124°15.80′ W. long.;
(23) 44°33.74′ N. lat., 124°14.44′ W. long.;
(24) 44°27.66′ N. lat., 124°16.99′ W. long.;
(25) 44°19.13′ N. lat., 124°19.22′ W. long.;
(26) 44°15.35′ N. lat., 124°17.38′ W. long.;
(27) 44°14.38′ N. lat., 124°17.78′ W. long.;
(28) 44°12.80′ N. lat., 124°17.18′ W. long.;
(29) 44°09.23′ N. lat., 124°15.96′ W. long.;
(30) 44°08.38′ N. lat., 124°16.79′ W. long.;
(31) 44°08.30′ N. lat., 124°16.75′ W. long.;
(32) 44°01.18′ N. lat., 124°15.42′ W. long.;
(33) 43°51.61′ N. lat., 124°14.68′ W. long.;
(34) 43°42.66′ N. lat., 124°15.46′ W. long.;
(35) 43°40.49′ N. lat., 124°15.74′ W. long.;
(36) 43°38.77′ N. lat., 124°15.64′ W. long.;
(37) 43°34.52′ N. lat., 124°16.73′ W. long.;
(38) 43°28.82′ N. lat., 124°19.52′ W. long.;
(39) 43°23.91′ N. lat., 124°24.28′ W. long.;
(40) 43°20.83′ N. lat., 124°26.63′ W. long.;
(41) 43°17.96′ N. lat., 124°28.81′ W. long.;
(42) 43°16.75′ N. lat., 124°28.42′ W. long.;
(43) 43°13.97′ N. lat., 124°31.99′ W. long.;
(44) 43°13.72′ N. lat., 124°33.25′ W. long.;
(45) 43°12.26′ N. lat., 124°34.16′ W. long.;
(46) 43°10.96′ N. lat., 124°32.33′ W. long.;
(47) 43°05.65′ N. lat., 124°31.52′ W. long.;
(48) 42°59.66′ N. lat., 124°32.58′ W. long.;
(49) 42°54.97′ N. lat., 124°36.99′ W. long.;
(50) 42°53.81′ N. lat., 124°38.57′ W. long.;
(51) 42°50.00′ N. lat., 124°39.68′ W. long.;
(52) 42°49.13′ N. lat., 124°39.70′ W. long.;
(53) 42°46.47′ N. lat., 124°38.89′ W. long.;
(54) 42°45.74′ N. lat., 124°38.86′ W. long.;
(55) 42°44.79′ N. lat., 124°37.96′ W. long.;
(56) 42°45.01′ N. lat., 124°36.39′ W. long.;
(57) 42°44.14′ N. lat., 124°35.17′ W. long.;
(58) 42°42.14′ N. lat., 124°32.82′ W. long.; and
(59) 42°40.50′ N. lat., 124°31.98′ W. long.

(*2*) The second season (spring season), which is for the "all-depth" fishery, is open on May 10, 11, 12, 17, 18, 19, 24, 25, 26, 31, and June 1, 2, 7, 8, 9. The projected catch for this season is 170,242 lb (77.2 mt). If sufficient unharvested catch remains for additional fishing days, the season will re-open. Dependent on the amount of unharvested catch available, the potential season re-opening dates will be: June 21, 22, 23, and July 5, 6, 7, 19, 20, 21. If NMFS decides inseason to allow fishing on any of these re-opening dates, notice of the re-opening will be announced on the NMFS hotline (206) 526–6667 or (800) 662–9825. No halibut fishing will be allowed on the re-opening dates unless the date is announced on the NMFS hotline.

(*3*) If sufficient unharvested catch remains, the third season (summer season), which is for the "all-depth" fishery, will be open on August 3, 4, 5, 17, 18, 19, 31, September 1, 2, 14, 15, 16, 28, 29, 30, and October 12, 13, 14, 26, 27, 28, or until the combined spring season and summer season quotas in the area between Cape Falcon and Humbug Mountain, Oregon, totaling 226,989 lb (103 mt), are estimated to have been taken and the area is closed by the Commission, or October 31, whichever is earlier. NMFS will announce on the NMFS hotline in July if the fishery will re-open for the summer season in August. No halibut fishing will be allowed in the summer season fishery unless the dates are announced on the NMFS hotline. Additional fishing days may be opened if a certain amount of quota remains after August 5 and September 2. If after August 5, greater than or equal to 60,000 lb (27.2 mt) remains in the combined all-depth and inside 40–fm (73–m) quota, the fishery may re-open every Friday through Sunday, beginning August 10 - 12, and ending October 26 - 28. If after September 2, greater than or equal to 30,000 lb (13.6 mt) remains in the combined all-depth and inside 40–fm (73–m) quota, and the fishery is not already open every Friday through Sunday, the fishery may re-open every Friday through Sunday, beginning September 7 - 9, and ending October 26 - 28. After September 2, the bag limit may be increased to two fish of any size per person, per day. NMFS will announce on the NMFS hotline whether the summer all-depth fishery will be open on such additional fishing days, days the fishery will be open, and the bag limit.

(B) The daily bag limit is one halibut of any size per day per person, unless

otherwise specified. NMFS will announce on the NMFS hotline any bag limit changes.

(C) During days open to all-depth halibut fishing, no Pacific Coast groundfish may be taken and retained, possessed or landed, except sablefish when allowed by Pacific Coast groundfish regulations, if halibut are onboard the vessel.

(D) When the all-depth halibut fishery is closed and halibut fishing is permitted only shoreward of a boundary line approximating the 40–fm (73–m) depth contour, halibut possession and retention by vessels operating seaward of a boundary line approximating the 40–fm (73–m) depth contour is prohibited.

(E) Recreational fishing for groundfish and halibut is prohibited within the Stonewall Bank YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the Stonewall Bank YRCA. A vessel fishing in the Stonewall Bank YRCA may not be in possession of any halibut. Recreational vessels may transit through the Stonewall Bank YRCA with or without halibut onboard. The Stonewall Bank YRCA is an area off central Oregon, near Stonewall Bank, intended to protect yelloweye rockfish. The Stonewall Bank YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

(1) 44°37.46 N. lat.; 124°24.92′ W. long.;

(2) 44°37.46 N. lat.; 124°23.63′ W. long.;

(3) 44°28.71 N. lat.; 124°21.80′ W. long.;

(4) 44°28.71 N. lat.; 124°24.10′ W. long.;

(5) 44°31.42 N. lat.; 124°25.47′ W. long.;

and connecting back to 44°37.46′ N. lat.; 124°24.92′ W. long.

(vi) In the area south of Humbug Mountain, Oregon (42°40.50′ N. lat.) and off the California coast, there is no quota. This area is managed on a season that is projected to result in a catch of 8,045 lb (3.6 mt).

(A) The fishing season will commence on May 1 and continue 7 days a week until October 31.

(B) The daily bag limit is one halibut of any size per day per person.

(c) The Commission shall determine and announce closing dates to the public for any area in which the catch limits promulgated by NMFS are estimated to have been taken.

(d) When the Commission has determined that a subquota under paragraph (4)(b) of this section is estimated to have been taken, and has announced a date on which the season will close, no person shall sport fish for halibut in that area after that date for the rest of the year, unless a reopening of that area for sport halibut fishing is scheduled in accordance with the Catch Sharing Plan for Area 2A, or announced by the Commission.

(5) Any minimum overall size limit promulgated under IPHC or NMFS regulations shall be measured in a straight line passing over the pectoral fin from the tip of the lower jaw with the mouth closed, to the extreme end of the middle of the tail.

(6) In California, Oregon, Washington, or British Columbia no person shall fillet, mutilate, or otherwise disfigure a halibut in any manner that prevents the determination of minimum size or the number of fish caught; possessed, or landed.

(7) In Alaska no person shall fillet, mutilate, or otherwise disfigure a halibut in any manner that prevents the determination of minimum size or the number of fish caught while onboard the catcher vessel.

(8) The possession limit for halibut in the waters off the coast of Alaska is two daily bag limits.

(9) The possession limit for halibut in the waters off the coast of British Columbia is three halibut.

(10) The possession limit on a vessel for halibut in the waters off the coast of Washington is the same as the daily bag limit.

(11) The possession limit on land in Washington for halibut caught is U.S. waters off the coast of Washington is two halibut.

(12) The possession limit on a vessel for halibut caught in the waters off the coast of Oregon is the same as the daily bag limit.

(13) The possession limit on a vessel for halibut caught in the waters off the coast of California is one halibut.

(14) The possession limit for halibut on land in Oregon is three daily bag limits.

(15) The possession limit for halibut on land in California is one halibut.

(16) Any halibut brought aboard a vessel and not immediately returned to the sea with a minimum of injury will be included in the daily bag limit of the person catching the halibut.

(17) No person shall be in possession of halibut on a vessel while fishing in a closed area.

(18) No halibut caught by sport fishing shall be offered for sale, sold, traded, or bartered.

(19) No halibut caught in sport fishing shall be possessed onboard a vessel when other fish or shellfish aboard the said vessel are destined for commercial use, sale, trade, or barter.

(20) The operator of a charter vessel shall be liable for any violations of these regulations committed by a passenger aboard said vessel.

26. Previous Regulations Superseded

These regulations shall supersede all previous regulations of the Commission, and these regulations shall be effective each succeeding year until superseded.

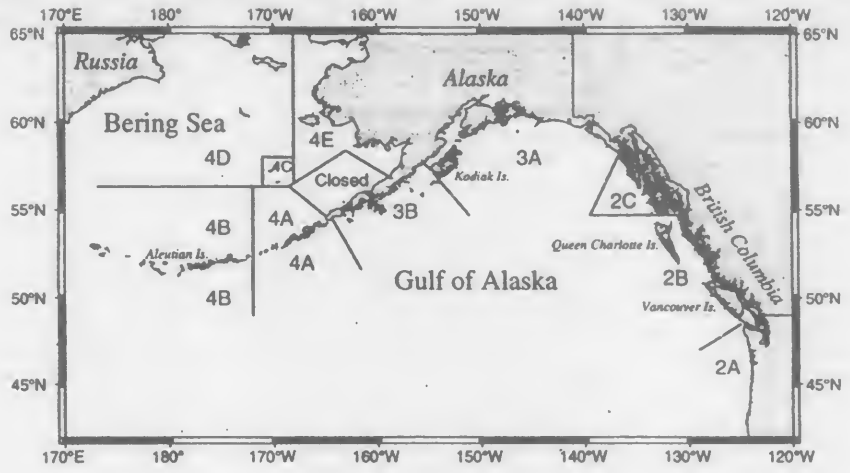

Figure 1. Regulatory areas for the Pacific halibut fishery.

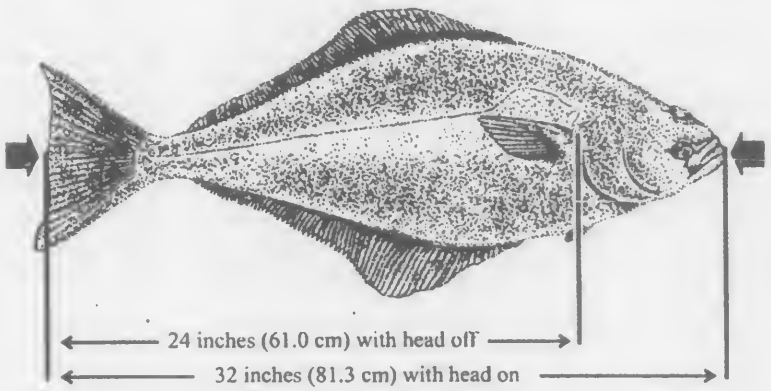

Figure 2. Minimum commercial size.

Classification

IPHC Regulations

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

The notice-and-comment and delay-in-effectiveness date requirements of the Administrative Procedure Act (APA), 5 U.S.C. 553, are inapplicable to this notice of the effectiveness and content of the IPHC regulations because this regulation involves a foreign affairs function of the United States, 5 U.S.C. 553(a)(1). Furthermore, no other law requires prior notice and public comment for this final rule. Because prior notice and an opportunity for public comment are not required to be provided for these portions of this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable.

Catch Sharing Plan for Area 2A

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

The AA finds good cause to waive the requirement to provide a 30-day delay in effectiveness (5 U.S.C. 553(d)) because it is contrary to the public interest to delay the effectiveness date of this rule for 30 days. This final rule must be made effective for the opening of the 2007 Pacific halibut fishing season on March 10, 2007. Delaying the opening of the fishing season is contrary to the public interest because it would cause unnecessary economic burden on fishery participants due to loss of fishing opportunity. Because the annual quotas and management measures are ultimately determined by an international commission, the IPHC, the AA is constrained and cannot publish the final rule until after the IPHC has adopted the annual quotas and management measures for the year. NMFS's implementation of the CSP in Area 2A could not begin until after January 19, 2007, when the IPHC adopted annual quotas and management measures for 2007. Insufficient time existed between when the IPHC adopted the annual quotas and management measures for 2007 and the scheduled March 10, 2007, start of the fishing season to publish the regulations in the **Federal Register** with enough time for a 30-day delay in effectiveness.

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) in association with the proposed rule for this action. A final regulatory flexibility analysis (FRFA) incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, if any, and NMFS responses to those comments, and a summary of the analyses completed to support the action. NMFS received no comments on the IRFA and the Area 2A 2007 TAC is approximately 3 percent less than the Area 2A 2006 TAC, a reduction so minor that the differences between 2006 and 2007 halibut management in Area 2A are imperceptible. Therefore, the IRFA for this action also serves as the FRFA. A copy of this analysis is available from the NMFS Northwest Region (see **ADDRESSES**) and a summary of the FRFA follows:

This final rule is necessary to implement the CSP and annual domestic management measures in Area 2A. The main objective for the Pacific halibut fishery in Area 2A is to manage the fisheries to remain within the TAC for Area 2A, while also allowing each commercial, recreational, and tribal fishery to target halibut in the manner most appropriate for the users' needs within that fishery. This final rule is intended to enhance the conservation of Pacific halibut, to protect yelloweye rockfish and other overfished species from incidental catch in the halibut fisheries, and to provide greater angler opportunity where available.

The agency received three letters of comment on the proposed rule, but none of the comments received addressed the IRFA or the effects of this action on small entities.

A fish-harvesting business is considered a "small" business by the Small Business Administration (SBA) if it has annual receipts not in excess of $4.0 million. For related fish-processing businesses, a small business is one that employs 500 or fewer persons. For wholesale businesses, a small business is one that employs not more than 100 people. For marinas and charter/party boats, a small business is one with annual receipts not in excess of $6.5 million. All of the businesses that would be affected by this action are considered small businesses under Small Business Administration guidance.

This action finalizes the following changes to the CSP, which allocates the catch of Pacific halibut among users in Washington, Oregon, and California: (1) constrain the Washington North Coast subarea June fishery to two specific nearshore areas on the first Tuesday and Thursday following June 17; (2) reopen the Washington North Coast subarea June fishery in the entire north coast subarea on the first Saturday following June 17; (3) if sufficient quota remains, reopen the entire Washington North Coast subarea for one day on the first Thursday following June 24, otherwise, reopen the nearshore areas on the first Thursday following June 24 for up to four days per week (Thursday-Sunday) until the quota is taken; (4) set aside 5 percent of the Washington South Coast subarea quota for the nearshore fishery once the primary fishery has closed; (5) set the Washington South Coast subarea nearshore fishery as a 2-day per week fishery, open Fridays and Saturdays; (6) implement additional closed areas (Yelloweye Rockfish Conservation Areas, or YRCAs) off the coast of Washington that would affect commercial and sport halibut fisheries; (7) remove latitude/longitude coordinates from the CSP but refer to where in the regulations they are published to reduce duplication; (8) remove language referring to salmon troll fishery July-September season; (9) add a definition of the Bonilla-Tatoosh line; and (10) decrease the California possession limit on land from two daily limits to one daily limit statewide to conform with state regulation. This action also implements sport fishery management measures for Area 2A and revises Area 2A non-treaty commercial fishery closed areas specified at 50 CFR 300.63. These actions are intended to enhance the conservation of Pacific halibut, to provide greater angler opportunity where available, to protect yelloweye rockfish and other overfished groundfish species from incidental catch in the halibut fisheries, and to ensure consistency between Federal groundfish and halibut regulations and between State and Federal regulations.

In 1995, NMFS implemented the CSP, when the TAC was 520,000 lb (236 mt). In each of the intervening years between 1995 and the present, minor revisions to the CSP have been made to adjust for the changing needs of the fisheries, even though the TAC reached levels of over 1 million lb (454 mt), with a peak of 1.48 million lb (671 mt) in 2004. Since 2004, there has been very little change in the total allowable catch and sector allocations. In 2005, the Area 2A Halibut TAC set by the IPHC was 1.33 million lb (603 mt) and for 2006 it was 1.38 million lb (626 mt). The 2007 Area 2A TAC is 1.34 million lb (608 mt), a 3 percent decline from 2006.

Six hundred sixty two vessels were issued IPHC licenses to retain halibut in 2006. IPHC issues licenses for the directed commercial fishery in Area 2A, including licenses issued to retain halibut caught incidentally in the primary sablefish fishery (298 licenses in 2006); incidental halibut caught in the salmon troll fishery (224 licenses in 2006); and the charterboat fleet (140 licenses in 2006). No vessel may participate in more than one of these three fisheries per year. Individual recreational anglers and private boats are the only sectors that are not required to have an IPHC license to retain halibut.

Specific data on the economics of halibut charter operations are unavailable. However, in January 2004, the Pacific States Marine Fisheries Commission (PSMFC) completed a report on the overall West Coast charterboat fleet. In surveying charterboat vessels concerning their operations in 2000, the PSMFC estimated that there were about 315 charterboat vessels in operation off Washington and Oregon. In 2000, IPHC licensed 130 vessels to fish in the halibut sport charter fishery. Comparing the total charterboat fleet to the 130 and 140 IPHC licenses in 2000 and 2006, respectively, approximately 41 to 44 percent of the charterboat fleet could participate in the halibut fishery. The PSMFC has developed preliminary estimates of the annual revenues earned by this fleet and they vary by size class of the vessels and home state. Small charterboat vessels range from 15 to 30 ft (4.6 to 9.1 m), and typically carry 5 to 6 passengers. Medium charterboat vessels range from 31 to 49 ft (9.4 to 14.9 m) in length and typically carry 19 to 20 passengers. (Neither state has large vessels of greater than 49 ft (14.9 m) in their fleet.) Average annual revenues from all types of recreational fishing, whalewatching and other activities ranged from $7,000 for small Oregon vessels to $131,000 for medium Washington vessels. Estimates from the RIR for this action show the recreational halibut fishery generated approximately $2.5 million in personal income to West Coast communities, while the non-tribal commercial halibut fishery generated approximately $1.8 million in income impacts. Because these estimated impacts for the entire halibut fishery overall are less than the SBA criteria for individual businesses, these data confirm that charterboat and commercial halibut vessels qualify as small entities under the Regulatory Flexibility Act (RFA).

These changes are authorized under the Pacific Halibut Act, implementing regulations at 50 CFR 300.60 through 300.65, and the Pacific Council process of annually evaluating the utility and effectiveness of Area 2A Pacific halibut

management under the CSP. Given the TAC, the sport management measures implement the CSP by managing the recreational fishery to meet the differing fishery needs of the various areas along the coast according to the CSP's objectives. Commercial management measures will allow the fishery access to a portion of the Area 2A TAC while protecting overfished rockfish species that co-occur with halibut. The measures will be very similar to last year's management measures. The changes to the CSP and domestic management measures are minor changes and are intended to increase flexibility in management and opportunity to harvest available quota. There are no large entities involved in the halibut fisheries; therefore, none of these changes to the CSP and domestic management measures will have a disproportionate negative effect on small entities versus large entities.

This final rule does not impose any new reporting or recordkeeping requirements. This rule will also not duplicate, overlap, or conflict with other laws or regulations. Consequently, these changes to the CSP and annual domestic Area 2A halibut management measures do not meet any of the RFA tests of having a "significant" economic impact on a "substantial number" of small entities.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of halibut management in Area 2A, NMFS maintains a toll-free telephone hotline where members of the public may call in to receive current information on seasons and requirements to participate in the halibut fisheries in Area 2A. This hotline also serves as small entity compliance guide. Copies of this final rule are available from the NMFS Northwest Regional Office upon request (See **ADDRESSES**). To hear the small entity compliance guide associated with this final rule, call the NMFS hotline at 800 662 9825.

Pursuant to Executive Order 13175, the Secretary recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. At section 305(b)(5), the Magnuson-Stevens Fishery Conservation and Management Act establishes a seat on the Pacific Council for a representative of an Indian tribe with federally recognized fishing rights from California, Oregon, Washington, or Idaho. The U.S. Government formally recognizes that 12 Washington tribes have treaty rights to fish for Pacific halibut. In general terms, the quantification of those rights is 50 percent of the harvestable surplus of Pacific halibut available in the tribes' usual and accustomed fishing areas (described at 50 CFR 300.64). Each of the treaty tribes has the discretion to administer their fisheries and to establish their own policies to achieve program objectives. Accordingly, tribal allocations and regulations, including the changes to the CSP, have been developed in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

List of Subjects in 50 CFR Part 300

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

Dated: March 8, 2007.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

■ For the reasons set out in the preamble, NMFS amends 50 CFR part 300 as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

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

Authority: 16 U.S.C. 773 *et seq.*

■ 2. In § 300.63, paragraphs (e), (f), and (g) are revised to read as follows:

§ 300.63 Catch sharing plan and domestic management measures in Area 2A.

* * * * *

(e) *Area 2A Non-Treaty Commercial Fishery Closed Areas.* (1) Non-treaty commercial vessels operating in the directed commercial fishery for halibut in Area 2A are required to fish outside of a closed area, known as the Rockfish Conservation Area (RCA), that extends along the coast from the U.S./Canada border south to 40°10′ N. lat. Between the U.S./Canada border and 46°16′ N. lat., the eastern boundary of the RCA is the shoreline. Between 46°16′ N. lat. and 40°10′ N. lat., the RCA is defined along an eastern boundary approximating the 30–fm (55–m) depth contour. Coordinates for the 30–fm (55–m) boundary are listed at § 300.63 (f). Between the U.S./Canada border and 40°10′ N. lat., the RCA is defined along a western boundary approximating the 100–fm (183–m) depth contour. Coordinates for the 100–fm (183–m) boundary are listed at § 300.63 (g).

(2) Non-treaty commercial vessels operating in the incidental catch fishery during the sablefish fishery north of Pt. Chehalis, Washington, in Area 2A are required to fish outside of a closed area. Under Pacific Coast groundfish regulations at 50 CFR 660.382, fishing with limited entry fixed gear is prohibited within the North Coast Commercial Yelloweye Rockfish Conservation Area (YRCA). It is unlawful to take and retain, possess, or land halibut taken with limited entry fixed gear within the North Coast Commercial YRCA. The North Coast Commercial YRCA is an area off the northern Washington coast, overlapping the northern part of North Coast Recreational YRCA, and is defined by straight lines connecting latitude and longitude coordinates. Coordinates for the North Coast Commercial YRCA are specified in groundfish regulations at 50 CFR 660.390.

(3) Non-treaty commercial vessels operating in the incidental catch fishery during the salmon troll fishery in Area 2A are required to fish outside of a closed area. Under the Pacific Coast groundfish regulations at 50 CFR 660.383, fishing with salmon troll gear is prohibited within the Salmon Troll YRCA. It is unlawful for commercial salmon troll vessels to take and retain, possess, or land fish within the Salmon Troll YRCA. The Salmon Troll YRCA is an area off the northern Washington coast and is defined by straight lines connecting latitude and longitude coordinates. Coordinates for the Salmon Troll YRCA are specified in groundfish regulations at 50 CFR 660.390 and in salmon regulations at 50 CFR 660.405.

(f) The 30–fm (55–m) depth contour between 46°16′ N. lat. and 40°10′ N. lat. is defined by straight lines connecting all of the following points in the order stated:

(1) 46°16.00′ N. lat., 124°13.05′ W. long.;

(2) 46°16.00′ N. lat., 124°13.04′ W. long.;

(3) 46°07.00′ N. lat., 124°07.01′ W. long.;

(4) 45°55.95′ N. lat., 124°02.23′ W. long.;

(5) 45°54.53′ N. lat., 124°02.57′ W. long.;

(6) 45°50.65′ N. lat., 124°01.62′ W. long.;

(7) 45°48.20′ N. lat., 124°02.16′ W. long.;

(8) 45°46.00′ N. lat., 124°01.86′ W. long.;

(9) 45°43.46′ N. lat., 124°01.28′ W. long.;

(10) 45°40.48′ N. lat., 124°01.03′ W. long.;
(11) 45°39.04′ N. lat., 124°01.68′ W. long.;
(12) 45°35.48′ N. lat., 124°01.90′ W. long.;
(13) 45°29.81′ N. lat., 124°02.45′ W. long.;
(14) 45°27.97′ N. lat., 124°01.90′ W. long.;
(15) 45°27.22′ N. lat., 124°02.66′ W. long.;
(16) 45°24.20′ N. lat., 124°02.94′ W. long.;
(17) 45°20.60′ N. lat., 124°01.74′ W. long.;
(18) 45°20.25′ N. lat., 124°01.85′ W. long.;
(19) 45°16.44′ N. lat., 124°03.22′ W. long.;
(20) 45°13.63′ N. lat., 124°02.69′ W. long.;
(21) 45°11.05′ N. lat., 124°03.59′ W. long.;
(22) 45°08.55′ N. lat., 124°03.47′ W. long.;
(23) 45°02.81′ N. lat., 124°04.64′ W. long.;
(24) 44°58.06′ N. lat., 124°05.03′ W. long.;
(25) 44°53.97′ N. lat., 124°06.92′ W. long.;
(26) 44°48.89′ N. lat., 124°07.04′ W. long.;
(27) 44°46.94′ N. lat., 124°08.25′ W. long.;
(28) 44°42.72′ N. lat., 124°08.98′ W. long.;
(29) 44°38.16′ N. lat., 124°11.48′ W. long.;
(30) 44°33.38′ N. lat., 124°11.54′ W. long.;
(31) 44°28.51′ N. lat., 124°12.04′ W. long.;
(32) 44°27.65′ N. lat., 124°12.56′ W. long.;
(33) 44°19.67′ N. lat., 124°12.37′ W. long.;
(34) 44°10.79′ N. lat., 124°12.22′ W. long.;
(35) 44°09.22′ N. lat., 124°12.28′ W. long.;
(36) 44°08.30′ N. lat., 124°12.30′ W. long.;
(37) 44°00.22′ N. lat., 124°12.80′ W. long.;
(38) 43°51.56′ N. lat., 124°13.18′ W. long.;
(39) 43°44.26′ N. lat., 124°14.50′ W. long.;
(40) 43°33.82′ N. lat., 124°16.28′ W. long.;
(41) 43°28.66′ N. lat., 124°18.72′ W. long.;
(42) 43°23.12′ N. lat., 124°24.04′ W. long.;
(43) 43°20.83′ N. lat., 124°25.67′ W. long.;
(44) 43°20.48′ N. lat., 124°25.90′ W. long.;
(45) 43°16.41′ N. lat., 124°27.52′ W. long.;
(46) 43°14.23′ N. lat., 124°29.28′ W. long.;
(47) 43°14.03′ N. lat., 124°28.31′ W. long.;
(48) 43°11.92′ N. lat., 124°28.26′ W. long.;
(49) 43°11.02′ N. lat., 124°29.11′ W. long.;
(50) 43°10.13′ N. lat., 124°29.15′ W. long.;
(51) 43°09.26′ N. lat., 124°31.03′ W. long.;
(52) 43°07.73′ N. lat., 124°30.92′ W. long.;
(53) 43°05.93′ N. lat., 124°29.64′ W. long.;
(54) 43°01.59′ N. lat., 124°30.64′ W. long.;
(55) 42°59.72′ N. lat., 124°31.16′ W. long.;
(56) 42°53.75′ N. lat., 124°36.09′ W. long.;
(57) 42°50.00′ N. lat., 124°38.39′ W. long.;
(58) 42°49.37′ N. lat., 124°38.81′ W. long.;
(59) 42°46.42′ N. lat., 124°37.69′ W. long.;
(60) 42°46.07′ N. lat., 124°38.56′ W. long.;
(61) 42°45.29′ N. lat., 124°37.95′ W. long.;
(62) 42°45.61′ N. lat., 124°36.87′ W. long.;
(63) 42°44.27′ N. lat., 124°33.64′ W. long.;
(64) 42°42.75′ N. lat., 124°31.84′ W. long.;
(65) 42°40.50′ N. lat., 124°29.67′ W. long.;
(66) 42°40.04′ N. lat., 124°29.20′ W. long.;
(67) 42°38.09′ N. lat., 124°28.39′ W. long.;
(68) 42°36.73′ N. lat., 124°27.54′ W. long.;
(69) 42°36.56′ N. lat., 124°28.40′ W. long.;
(70) 42°35.77′ N. lat., 124°28.79′ W. long.;
(71) 42°34.03′ N. lat., 124°29.98′ W. long.;
(72) 42°34.19′ N. lat., 124°30.58′ W. long.;
(73) 42°31.27′ N. lat., 124°32.24′ W. long.;
(74) 42°27.07′ N. lat., 124°32.53′ W. long.;
(75) 42°24.21′ N. lat., 124°31.23′ W. long.;
(76) 42°20.47′ N. lat., 124°28.87′ W. long.;
(77) 42°14.60′ N. lat., 124°26.80′ W. long.;
(78) 42°13.67′ N. lat., 124°26.25′ W. long.;
(79) 42°10.90′ N. lat., 124°24.56′ W. long.;
(80) 42°07.04′ N. lat., 124°23.35′ W. long.;
(81) 42°02.16′ N. lat., 124°22.59′ W. long.;
(82) 42°00.00′ N. lat., 124°21.81′ W. long.;
(83) 41°55.75′ N. lat., 124°20.72′ W. long.;
(84) 41°50.93′ N. lat., 124°23.76′ W. long.;
(85) 41°42.53′ N. lat., 124°16.47′ W. long.;
(86) 41°37.20′ N. lat., 124°17.05′ W. long.;
(87) 41°24.58′ N. lat., 124°10.51′ W. long.;
(88) 41°20.73′ N. lat., 124°11.73′ W. long.;
(89) 41°17.59′ N. lat., 124°10.66′ W. long.;
(90) 41°04.54′ N. lat., 124°14.47′ W. long.;
(91) 40°54.26′ N. lat., 124°13.90′ W. long.;
(92) 40°40.31′ N lat., 124°26.24′ W. long.;
(93) 40°34.00′ N. lat., 124°27.39′ W. long.;
(94) 40°30.00′ N. lat., 124°31.32′ W. long.;
(95) 40°28.89′ N. lat., 124°32.43′ W. long.;
(96) 40°24.77′ N. lat., 124°29.51′ W. long.;
(97) 40°22.47′ N. lat., 124°24.12′ W. long.;
(98) 40°19.73′ N. lat., 124°23.59′ W. long.;
(99) 40°18.64′ N. lat., 124°21.89′ W. long.;
(100) 40°17.67′ N. lat., 124°23.07′ W. long.;
(101) 40°15.58′ N. lat., 124°23.61′ W. long.;
(102) 40°13.42′ N. lat., 124°22.94′ W. long.; and
(103) 40°10.00′ N. lat., 124°16.65′ W. long.

(g) The 100–fm (183–m) depth contour used between the U.S. border with Canada and 40°10′ N. lat. is defined by straight lines connecting all of the following points in the order stated:

(1) 48°15.00′ N. lat., 125°41.00′ W. long.;
(2) 48°14.00′ N. lat., 125°36.00′ W. long.;
(3) 48°09.50′ N. lat., 125°40.50′ W. long.;
(4) 48°08.00′ N. lat., 125°38.00′ W. long.;
(5) 48°05.00′ N. lat., 125°37.25′ W. long.;
(6) 48°02.60′ N. lat., 125°34.70′ W. long.;
(7) 47°59.00′ N. lat., 125°34.00′ W. long.;

(8) 47°57.26′ N. lat., 125°29.82′ W. long.;
(9) 47°59.87′ N. lat., 125°25.81′ W. long.;
(10) 48°01.80′ N. lat., 125°24.53′ W. long.;
(11) 48°02.08′ N. lat., 125°22.98′ W. long.;
(12) 48°02.97′ N. lat., 125°22.89′ W. long.;
(13) 48°04.47′ N. lat., 125°21.75′ W. long.;
(14) 48°06.11′ N. lat., 125°19.33′ W. long.;
(15) 48°07.95′ N. lat., 125°18.55′ W. long.;
(16) 48°09.00′ N. lat., 125°18.00′ W. long.;
(17) 48°11.31′ N. lat., 125°17.55′ W. long.;
(18) 48°14.60′ N. lat., 125°13.46′ W. long.;
(19) 48°16.67′ N. lat., 125°14.34′ W. long.;
(20) 48°18.73′ N. lat., 125°14.41′ W. long.;
(21) 48°19.67′ N. lat., 125°13.70′ W. long.;
(22) 48°19.70′ N. lat., 125°11.13′ W. long.;
(23) 48°22.95′ N. lat., 125°10.79′ W. long.;
(24) 48°21.61′ N. lat., 125°02.54′ W. long.;
(25) 48°23.00′ N. lat., 124°49.34′ W. long.;
(26) 48°17.00′ N. lat., 124°56.50′ W. long.;
(27) 48°06.00′ N. lat., 125°00.00′ W. long.;
(28) 48°04.62′ N. lat., 125°01.73′ W. long.;
(29) 48°04.84′ N. lat., 125°04.03′ W. long.;
(30) 48°06.41′ N. lat., 125°06.51′ W. long.;
(31) 48°06.00′ N. lat., 125°08.00′ W. long.;
(32) 48°07.08′ N. lat., 125°09.34′ W. long.;
(33) 48°07.28′ N. lat., 125°11.14′ W. long.;
(34) 48°03.45′ N. lat., 125°16.66′ W. long.;
(35) 47°59.50′ N. lat., 125°18.88′ W. long.;
(36) 47°58.68′ N. lat., 125°16.19′ W. long.;
(37) 47°56.62′ N. lat., 125°13.50′ W. long.;
(38) 47°53.71′ N. lat., 125°11.96′ W. long.;
(39) 47°51.70′ N. lat., 125°09.38′ W. long.;
(40) 47°49.95′ N. lat., 125°06.07′ W. long.;
(41) 47°49.00′ N. lat., 125°03.00′ W. long.;
(42) 47°46.95′ N. lat., 125°04.00′ W. long.;
(43) 47°46.58′ N. lat., 125°03.15′ W. long.;
(44) 47°44.07′ N. lat., 125°04.28′ W. long.;
(45) 47°43.32′ N. lat., 125°04.41′ W. long.;
(46) 47°40.95′ N. lat., 125°04.14′ W. long.;
(47) 47°39.58′ N. lat., 125°04.97′ W. long.;
(48) 47°36.23′ N. lat., 125°02.77′ W. long.;
(49) 47°34.28′ N. lat., 124°58.66′ W. long.;
(50) 47°32.17′ N. lat., 124°57.77′ W. long.;
(51) 47°30.27′ N. lat., 124°56.16′ W. long.;
(52) 47°30.60′ N. lat., 124°54.80′ W. long.;
(53) 47°29.26′ N. lat., 124°52.21′ W. long.;
(54) 47°28.21′ N. lat., 124°50.65′ W. long.;
(55) 47°27.38′ N. lat., 124°49.34′ W. long.;
(56) 47°25.61′ N. lat., 124°48.26′ W. long.;
(57) 47°23.54′ N. lat., 124°46.42′ W. long.;
(58) 47°20.64′ N. lat., 124°45.91′ W. long.;
(59) 47°17.99′ N. lat., 124°45.59′ W. long.;
(60) 47°18.20′ N. lat., 124°49.12′ W. long.;
(61) 47°15.01′ N. lat., 124°51.09′ W. long.;
(62) 47°12.61′ N. lat., 124°54.89′ W. long.;
(63) 47°08.22′ N. lat., 124°56.53′ W. long.;
(64) 47°08.50′ N. lat., 124°57.74′ W. long.;
(65) 47°01.92′ N. lat., 124°54.95′ W. long.;
(66) 47°01.08′ N. lat., 124°59.22′ W. long.;
(67) 46°58.48′ N. lat., 124°57.81′ W. long.;
(68) 46°56.79′ N. lat., 124°56.03′ W. long.;
(69) 46°58.01′ N. lat., 124°55.09′ W. long.;
(70) 46°55.07′ N. lat., 124°54.14′ W. long.;
(71) 46°59.60′ N. lat., 124°49.79′ W. long.;
(72) 46°58.72′ N. lat., 124°48.78′ W. long.;
(73) 46°54.45′ N. lat., 124°48.36′ W. long.;
(74) 46°53.99′ N. lat., 124°49.95′ W. long.;
(75) 46°54.38′ N. lat., 124°52.73′ W. long.;
(76) 46°52.38′ N. lat., 124°52.02′ W. long.;
(77) 46°48.93′ N. lat., 124°49.17′ W. long.;
(78) 46°41.50′ N. lat., 124°43.00′ W. long.;
(79) 46°34.50′ N. lat., 124°28.50′ W. long.;
(80) 46°29.00′ N. lat., 124°30.00′ W. long.;
(81) 46°20.00′ N. lat., 124°36.50′ W. long.;
(82) 46°18.40′ N. lat., 124°37.70′ W. long.;
(83) 46°18.03′ N. lat., 124°35.46′ W. long.;
(84) 46°17.00′ N. lat., 124°22.50′ W. long.;
(85) 46°16.00′ N. lat., 124°20.62′ W. long.;
(86) 46°13.52′ N. lat., 124°25.49′ W. long.;
(87) 46°12.17′ N. lat., 124°30.74′ W. long.;
(88) 46°10.63′ N. lat., 124°37.96′ W. long.;
(89) 46°09.29′ N. lat., 124°39.01′ W. long.;
(90) 46°02.40′ N. lat., 124°40.37′ W. long.;
(91) 45°56.45′ N. lat., 124°38.00′ W. long.;
(92) 45°51.92′ N. lat., 124°38.50′ W. long.;
(93) 45°47.20′ N. lat., 124°35.58′ W. long.;
(94) 45°46.40′ N. lat., 124°32.36′ W. long.;
(95) 45°46.00′ N. lat., 124°32.10′ W. long.;
(96) 45°41.75′ N. lat., 124°28.12′ W. long.;
(97) 45°36.95′ N. lat., 124°24.47′ W. long.;
(98) 45°31.84′ N. lat., 124°22.04′ W. long.;
(99) 45°27.10′ N. lat., 124°21.74′ W. long.;
(100) 45°20.25′ N. lat., 124°18.54′ W. long.;
(101) 45°18.14′ N. lat., 124°17.59′ W. long.;
(102) 45°11.08′ N. lat., 124°16.97′ W. long.;
(103) 45°04.39′ N. lat., 124°18.35′ W. long.;
(104) 45°03.83′ N. lat., 124°18.60′ W. long.;
(105) 44°58.05′ N. lat., 124°21.58′ W. long.;
(106) 44°47.67′ N. lat., 124°31.41′ W. long.;
(107) 44°44.54′ N. lat., 124°33.58′ W. long.;
(108) 44°39.88′ N. lat., 124°35.00′ W. long.;
(109) 44°32.90′ N. lat., 124°36.81′ W. long.;
(110) 44°30.34′ N. lat., 124°38.56′ W. long.;
(111) 44°30.04′ N. lat., 124°42.31′ W. long.;
(112) 44°26.84′ N. lat., 124°44.91′ W. long.;

(113) 44°17.99′ N. lat., 124°51.04′ W. long.;
(114) 44°12.92′ N. lat., 124°56.28′ W. long.;
(115) 44°00.14′ N. lat., 124°55.25′ W. long.;
(116) 43°57.68′ N. lat., 124°55.48′ W. long.;
(117) 43°56.66′ N. lat., 124°55.45′ W. long.;
(118) 43°56.47′ N. lat., 124°34.61′ W. long.;
(119) 43°42.73′ N. lat., 124°32.41′ W. long.;
(120) 43°30.92′ N. lat., 124°34.43′ W. long.;
(121) 43°20.83′ N. lat., 124°39.39′ W. long.;
(122) 43°17.45′ N. lat., 124°41.16′ W. long.;
(123) 43°07.04′ N. lat., 124°41.25′ W. long.;
(124) 43°03.45′ N. lat., 124°44.36′ W. long.;
(125) 43°03.91′ N. lat., 124°50.81′ W. long.;
(126) 42°55.70′ N. lat., 124°52.79′ W. long.;
(127) 42°54.12′ N. lat., 124°47.36′ W. long.;
(128) 42°50.00′ N. lat., 124°45.33′ W. long.;
(129) 42°44.00′ N. lat., 124°42.38′ W. long.;
(130) 42°40.50′ N. lat., 124°41.71′ W. long.;
(131) 42°38.23′ N. lat., 124°41.25′ W. long.;
(132) 42°33.02′ N. lat., 124°42.38′ W. long.;
(133) 42°31.90′ N. lat., 124°42.04′ W. long.;
(134) 42°30.08′ N. lat., 124°42.67′ W. long.;
(135) 42°28.28′ N. lat., 124°47.08′ W. long.;
(136) 42°25.22′ N. lat., 124°43.51′ W. long.;
(137) 42°19.23′ N. lat., 124°37.91′ W. long.;
(138) 42°16.29′ N. lat., 124°36.11′ W. long.;
(139) 42°13.67′ N. lat., 124°35.81′ W. long.;
(140) 42°05.66′ N. lat., 124°34.92′ W. long.;
(141) 42°00.00′ N. lat., 124°35.27′ W. long.;
(142) 41°47.04′ N. lat., 124°27.64′ W. long.;
(143) 41°32.92′ N. lat., 124°28.79′ W. long.;
(144) 41°24.17′ N. lat., 124°28.46′ W. long.;
(145) 41°10.12′ N. lat., 124°20.50′ W. long.;
(146) 40°51.41′ N. lat., 124°24.38′ W. long.;
(147) 40°43.71′ N. lat., 124°29.89′ W. long.;
(148) 40°40.14′ N. lat., 124°30.90′ W. long.;
(149) 40°37.35′ N. lat., 124°29.05′ W. long.;
(150) 40°34.76′ N. lat., 124°29.82′ W. long.;
(151) 40°36.78′ N. lat., 124°37.06′ W. long.;
(152) 40°32.44′ N. lat., 124°39.58′ W. long.;
(153) 40°30.00′ N. lat., 124°38.13′ W. long.;
(154) 40°24.82′ N. lat., 124°35.12′ W. long.;
(155) 40°23.30′ N. lat., 124°31.60′ W. long.;
(156) 40°23.52′ N. lat., 124°28.78′ W. long.;
(157) 40°22.43′ N. lat., 124°25.00′ W. long.;
(158) 40°21.72′ N. lat., 124°24.94′ W. long.;
(159) 40°21.87′ N. lat., 124°27.96′ W. long.;
(160) 40°21.40′ N. lat., 124°28.74′ W. long.;
(161) 40°19.68′ N. lat., 124°28.49′ W. long.;
(162) 40°17.73′ N. lat., 124°25.43′ W. long.;
(163) 40°18.37′ N. lat., 124°23.35′ W. long.;
(164) 40°15.75′ N. lat., 124°26.05′ W. long.;
(165) 40°16.75′ N. lat., 124°33.71′ W. long.;
(166) 40°16.29′ N. lat., 124°34.36′ W. long.; and
(167) 40°10.00′ N. lat., 124°21.12′ W. long.

[FR Doc. 07–1196 Filed 3–9–07; 3:02 pm]
BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070213033–7033–01; I.D. 030907A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by catcher vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2007 first seasonal allowance of the Pacific cod total allowable catch (TAC) specified for catcher vessels using trawl gear in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 12, 2007, through 1200 hrs, A.l.t., April 1, 2007.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2007 first seasonal allowance of the Pacific cod TAC specified for catcher vessels using trawl gear in the BSAI is 25,977 metric tons (mt) as established by the 2007 and 2008 final harvest specifications for groundfish in the BSAI (72 FR 9451, March 2, 2007), for the period 1200 hrs, A.l.t., January 1, 2007, through 1200 hrs, A.l.t., April 1, 2007. See § 679.20(c)(3)(iii), § 679.20(c)(5), and § 679.20(a)(7)(i)(B).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2007 first seasonal allowance of the Pacific cod TAC specified for catcher vessels using trawl gear in the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 25,777 mt, and is setting aside the remaining 200 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels using trawl gear in the BSAI.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and

opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific cod by catcher vessels using trawl gear in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 8, 2007.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: March 09, 2007.

James P. Burgess,

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

[FR Doc. 07–1194 Filed 3–9–07; 3:02 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 72, No. 49
Wednesday, March 14, 2007

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

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. EPA–R02–OAR–2006–0162; FRL–8287–4]

Approval and Promulgation of Implementation Plans; Implementation Plan Revision; State of New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve a request from the State of New Jersey to revise its State Implementation Plan (SIP) for ozone to incorporate state-adopted amendments to Subchapter 19 "Control and Prohibition of Air Pollution from Oxides of Nitrogen" and related amendments to Subchapter 16 "Control and Prohibition of Air Pollution by Volatile Organic Compounds." The amendments relate to the control of oxides of nitrogen (NO_X) emissions from stationary industrial sources. This SIP revision consists of control measures needed to meet the shortfall in emission reductions in New Jersey's 1-hour ozone attainment demonstration SIP as identified by EPA.

The intended effect of this proposed rule is to approve the state control strategy, which will result in emission reductions that will help achieve attainment of the national ambient air quality standards for ozone required by the Clean Air Act (the Act).

DATES: Comments must be received on or before April 13, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R02–OAR–2006–0162, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: Werner.Raymond@epa.gov.*
- *Fax:* 212–637–3901.
- *Mail:* Raymond Werner, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.
- *Hand Delivery:* Raymond Werner, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866. Hand deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R02–OAR–2006–0162. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Anthony (Ted) Gardella *gardella.anthony@epa.gov* at the Air Programs Branch, U.S. Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866, telephone number (212) 637–4249, fax number (212) 637–3901.

Copies of the New Jersey submittals are available at the following addresses for inspection during normal business hours:

Air Programs Branch, U.S. Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

New Jersey Department of Environmental Protection, Office of Energy, Bureau of Air Quality Planning, 401 East State Street, CN027, Trenton, New Jersey 08625.

SUPPLEMENTARY INFORMATION: For detailed information on New Jersey's SIP revisions see the Technical Support Document (TSD), prepared in support of today's proposed action. A copy of the TSD is available upon request from the EPA Regional Office listed in the **ADDRESSES** section or it can be viewed at *www.regulations.gov.*

The following table of contents describes the format for this notice:

I. EPA's Proposed Action

A. What Action Is EPA Proposing Today?

EPA proposes to act on a New Jersey submission that includes a new rule and amendments to Subchapter 19 "Control and Prohibition of Air Pollution from Oxides of Nitrogen"; Subchapter 16 "Control and Prohibition of Air Pollution by Volatile Organic Compounds"; Subchapter 8 "Permits and Certificates for Minor Facilities (and Major Facilities Without an Operating Permit)"; and Subchapter 22 "Operating Permits."

Except for certain Open Market Emissions Trading (OMET) Program provisions in Subchapters 8, 16, and 19,

and compliance dates beyond November 15, 2007 for repowering and innovative control technology, as discussed later in this notice, EPA proposes to approve, as revisions to the New Jersey ozone SIP, the state-adopted amendments to Subchapter 19 and Subchapter 16, each adopted by New Jersey on September 8, 2005, and submitted to EPA on December 16, 2005. EPA is currently reviewing past amendments to Subchapter 8 and will address the approvability of all Subchapter 8 amendments at the same time in a future action. Subchapter 22 is New Jersey's operating permit rule that was separately approved under title V of the Clean Air Act and therefore Subchapter 22 should not have been submitted as a SIP revision. EPA has reviewed the new amendments to Subchapter 22 and will formally respond to New Jersey with a letter.

New Jersey amended Subchapter 19 to reduce additional emissions of NO_X in response to emission reduction shortfalls, identified by EPA (64 FR 70380, December 16, 1999), for attainment of New Jersey's 1-hour ozone standard. New Jersey amended Subchapter 16 to be consistent with amendments to Subchapter 19. Except for certain provisions discussed later in this notice, EPA proposes that New Jersey's state-adopted Subchapters 16 and 19 are fully approvable as a SIP-strengthening measure for New Jersey's ground level ozone SIP. The amendments to Subchapters 16 and 19 in New Jersey's submittal meet New Jersey's commitment by adopting control measures for additional emission reductions to attain the 1-hour ozone standard and close the shortfall. Therefore, EPA will not proceed with the May 27, 2004 (69 FR 30249) proposed Finding of Failure to Implement.

B. Why Is EPA Proposing This Action?

EPA is proposing this action to:

- Give the public the opportunity to submit comments on EPA's proposed action;
- Approve a control measure which reduces NO_X emissions, a precursor of ozone formation, to help attain the national ambient air quality standards for ozone;
- Fulfill New Jersey's and EPA's requirement under the Act; and
- Make New Jersey's regulations for additional emission reductions federally enforceable and available for emission reduction credit in the SIP.

C. What Are the Clean Air Act Requirements for NO_X RACT?

The Act requires certain states to develop reasonably available control technology (RACT) regulations for major stationary sources of NO_X and to provide for their implementation as soon as practicable but, under the 1-hour ozone standard, no later than May 31, 1995. New Jersey amended Subchapter 19, the State's NO_X RACT regulation, to achieve the needed additional NO_X reductions. Under the Act, the definition of major stationary source is based on the tons per year (tpy) of air pollution a source emits and the quality of the air in the area in which the source is located. In ozone transport regions, defined as attainment/unclassified areas as well as marginal and moderate ozone nonattainment areas, if a major stationary source of NO_X emits or has the potential to emit 100 tpy or more of NO_X, it is subject to the requirements of a moderate nonattainment area. New Jersey is within the Northeast ozone transport region, established by section 184(a) of the Act. In New Jersey, pursuant to § 19.1 of Subchapter 19, a major stationary source for NO_X emits or has the potential to emit 25 tpy, the level set for severe ozone nonattainment areas. Consequently, under the 1-hour ozone standard, all sources of NO_X that emit or have the potential to emit 25 tpy within New Jersey were required to implement RACT no later than May 31, 1995.

In July 1997, EPA promulgated a revised national ambient air quality standard for ozone of 0.08 parts per million (ppm). The standard was based on a three-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area. On April 30, 2004 (69 FR 23857), EPA established air quality designations and classifications for every area in the United States, including New Jersey, for the 8-hour ozone standard. In the April 2004 rule, EPA designated the entire state of New Jersey as nonattainment and classified New Jersey as a Subpart 2/moderate area, effective June 15, 2004. The April 2004 rule also provided that one year from the effective date of an area's 8-hour ozone standard designation, the 1-hour ozone standard would no longer apply (i.e., would be revoked) for that area. In December 2006, the United States Court of Appeals for the District of Columbia Circuit vacated the April 2004 rule. *S. Coast Air Quality Management Dist.* v. *EPA*, 2006 U.S. App. LEXIS 31451. The case is still in litigation, thus its resolution is unclear. Nonetheless, on February 4, 2002 (67 FR 5152), EPA approved New Jersey's commitment to adopt NO_X emission reductions by November 15, 2007 in order to close emissions shortfalls and attain the 1-hour ozone standard.

D. What Were the Clean Air Act Requirements for Attainment of the 1-Hour Ozone Standard?

Section 182 of the Act requires states to submit SIP revisions for areas classified as nonattainment for ozone and provides dates when the revisions are to be submitted to EPA by the states. The specific requirements vary depending upon the severity of the ozone problem. EPA classified the New York-Northern New Jersey-Long Island area and the Philadelphia-Wilmington-Trenton area severe nonattainment areas (NAA) under the 1-hour ozone standard. Under section 182 of the Act, severe ozone nonattainment areas were required to submit demonstrations of how they would attain the 1-hour ozone standard. As noted above, on February 4, 2002 (67 FR 5152), EPA approved New Jersey's 1-hour ozone attainment demonstration, which included New Jersey's commitment to adopt additional volatile organic compound (VOC) and NO_X emission reductions to close the emissions shortfall.

This proposal addresses the NO_X reductions to which New Jersey committed. For the New York-Northern New Jersey-Long Island NAA, the deadline for attainment of the 1-hour ozone standard is November 15, 2007. According to ambient air quality data collected since 2005, the Philadelphia-Wilmington-Trenton NAA is in attainment for the 1-hour ozone standard. Although ambient air quality monitors demonstrate attainment for the 1-hour ozone standard, the Philadelphia-Wilmington-Trenton NAA has never been reclassified to attainment. As stated above, EPA has promulgated the 8-hour ozone standard, which, dependant upon the litigation mentioned above, may supersede the 1-hour ozone standard from the effective date of the 8-hour ozone designation. If the 1-hour ozone standard is considered to be revoked, the New York-Northern New Jersey-Long Island NAA is no longer required to attain the 1-hour ozone standard by November 15, 2007. In any event, New Jersey is still required to meet its commitment to reduce additional NO_X emissions to close the emissions shortfall by November 15, 2007. The emission reductions provided by control measures in the amendments to Subchapter 19 will also be necessary

for attainment of the 8-hour ozone standard.

The Ozone Transport Commission (OTC) developed model rules for potential control measures for achieving NO_X reductions for a number of source categories and estimated the potential emission reduction benefits from implementing the model rules. The model rules were designed for use by states in developing their own regulations to close emission shortfalls. New Jersey used the OTC model rules for NO_X reductions as the basis for the submission upon which EPA is now acting.

E. When Was New Jersey's NO_X RACT Requirement Proposed and Adopted?

New Jersey proposed NO_X RACT rules and related requirements on September 20, 2004, accepted written comments on them until November 19, 2004, and held public hearings on them on October 28, 2004. New Jersey adopted the amended NO_X RACT and related requirements on September 8, 2005, and submitted them to EPA for approval as revisions to the SIP on December 16, 2005. On January 25, 2006, EPA determined the submittal to be administratively and technically complete.

F. What Is EPA's Evaluation of New Jersey's Submittal?

New Jersey previously submitted SIP revisions to Subchapter 19 to address the NO_X RACT requirements, which EPA approved as SIP revisions on January 27, 1997 (62 FR 3806) and March 29, 1999 (64 FR 14832). New Jersey also developed a NO_X Budget Trading Program (Subchapter 31), which EPA approved on May 22, 2001 (66 FR 28063). The current submission provides amendments that establish more stringent RACT limits for facilities that emit NO_X. The following is a summary of EPA's evaluation of New Jersey's December 16, 2005 SIP submittal consisting of amendments to Subchapters 16 and 19.

1. Subchapter 19

New Jersey revised Subchapter 19 to require owners and operators to implement the following new requirements:

Stationary reciprocating engines. The amended Subchapter 19, which has a compliance date of March 7, 2007, lowers the presumptive NO_X emission limits and lowers the applicability threshold for existing stationary reciprocating engines (REs) used for generating electricity. These amendments apply regardless of whether the source is located at a facility classified as major for NO_X. The previous rule that was approved into the SIP applied to any engine source category capable of producing an output of more than 500 brake horsepower (bhp) (370 kilowatts (kW)). The new NO_X emission limits apply to the following: (1) An engine that has a rated power output of 148 kW (about 200 bhp) or greater; and (2) a group of two or more engines each of which has a rated power output of 37 kW (about 50 bhp) or greater, but less than 148 kW, and whose total combined power output is 148 kW or greater; and (3) an engine capable of producing an output of 370 kW (500 bhp) or greater.

The new NO_X emission limits for these three categories of engines, expressed as grams NO_X per bhp-hour (g/bhp-hr), range from 1.5 to 2.3 depending upon the type of engine and the fuel combusted, and will result in additional NO_X reductions ranging from zero percent to 71 percent. The rule provides that lean-burn engines that combust gaseous fuels must meet either a NO_X emission limit of 1.5 g/bhp-hr or an emission limit equivalent to an 80 percent reduction from the uncontrolled NO_X emission level. The rule also includes NO_X emission limits for the following two new source categories: (1) Rich-burn engines that combust liquid fuel and (2) lean-burn engines capable of combusting dual (gas and liquid) fuels.

New Jersey also amended Subchapter 19 to apply to engines with a maximum rated power output of 37 kW or greater that are new or modified on or after March 7, 2007. New engines must meet a NO_X emission limit of 0.90 g/bhp-hr; modified engines are to meet the same NO_X emission limit as new engines or an emission limit that is equivalent to a 90 percent NO_X reduction from the uncontrolled emission level.

Pursuant to § 19.3(f) of Subchapter 19, owners or operators of the category of engines mentioned above may comply by meeting the new presumptive NO_X emission limits or by one of the following existing options: (1) An emissions averaging plan pursuant to §§ 19.6 and 19.14; (2) an alternative maximum allowable emission limit pursuant to § 19.13; (3) a plan for phased compliance through the use of repowering pursuant to § 19.21; or (4) a plan for phased compliance through the use of innovative control technology pursuant to § 19.23. In accordance with the phased compliance plan option, owners or operators planning to comply with a phased compliance plan must fully implement the plan by November 7, 2009 and have begun to comply with interim control measures and other requirements by March 7, 2007. Pursuant to § 19.20 of Subchapter 19, New Jersey must approve of any phased compliance plan. Applications to implement the phased compliance plans were due to New Jersey by February 7, 2006.

Each of the compliance options listed above are addressed below. First, any emissions averaging plan must be approved by New Jersey, however EPA approval is not required since the emissions averaging procedures of Subchapter 19.6 have already been approved by EPA into the New Jersey SIP. Second, any alternative maximum allowable emission limit must be approved by New Jersey and submitted for EPA approval as a SIP revision as provided in § 19.13.

Finally, the phased compliance plan options in §§ 19.21 and 19.23 would allow sources to comply with the NO_X RACT requirements in 2009 which is beyond the November 15, 2007 attainment deadline for the New York-Northern New Jersey-Long Island NAA. Sources that implement these phased compliance plan options in 2009 would not help the New York-Northern New Jersey-Long Island NAA achieve the NO_X reductions needed for attainment of the 1-hour ozone standard by the November 15, 2007 attainment date. For this reason, the new amended 2009 compliance date for phased compliance plan options is not acceptable to EPA. If the amendments to the phased compliance plan options had a compliance date prior to the start of the 2007 ozone season this would be acceptable to EPA.

It should be noted that New Jersey received no applications for phased compliance plan options before New Jersey's application deadline of February 7, 2006. Therefore, the new amendments to the phased compliance plan options at §§ 19.21 and 19.23 have no practical effect. Accordingly, EPA is not proposing to approve or disapprove these sections into the SIP. For the reasons stated above, EPA further recommends that New Jersey delete the new amendments to §§ 19.21 and 19.23 from Subchapter 19. These comments also apply to new amendments to Subchapter 19 that established phased compliance plan options for owners or operators of stationary combustion turbines and owners or operators of industrial/commercial/institutional boilers and other indirect heat exchangers.

Pursuant to § 19.8(f), effective either in 2005 or 2007, depending on the engine size, owners and operators of engines used for generating electricity, whether or not the engine is located at a major NO_X facility or, having a

maximum rated output of at least 37 kW or greater, shall adjust the engine's combustion process in accordance with the procedures specified in Subchapter 19. While combustion process adjustment is expected to reduce emissions of NO_X, New Jersey has indicated that it is not depending upon these reductions to meet the emissions shortfall.

Stationary combustion turbines. New Jersey amended Subchapter 19 by lowering the presumptive NO_X emission limits and by lowering the applicability threshold for existing stationary combustion turbines. The amendments provide that, effective March 7, 2007, the maximum gross heat input rate applicability threshold for stationary combustion turbines is 25 MM BTU/hr instead of 30 MM BTU/hr, as was the case in the previous State rule. Also, New Jersey changed the NO_X emission limits from heat input based limits (pounds per MM BTU (Lb/MM BTU)) to production output based limits (pounds per megawatt-hour (Lb/MWh)). Output based limits encourage sources to improve plant operating efficiency and pollution prevention, such as clean energy supply, which result in reduced fuel consumption and reduce emissions of pollutants, including NO_X. The new NO_X emission limits for stationary combustion turbines are in Table 4 of Subchapter 19. For oil fired turbines, the new output based NO_X limits are more stringent, by about 25 percent, than the previous input based NO_X limits. For gas fired turbines, the new NO_X emission limits are as stringent as the previous NO_X emission limits. One exception is that owners or operators of NO_X budget sources, regulated under Subchapter 31, shall continue to be subject to the current SIP-approved NO_X emission limits provided in Tables 2 and 3 of Subchapter 19.

Pursuant to § 19.5(d), owners or operators of stationary combustion turbines, with a maximum gross heat input rate of at least 25 MM BTU/hr, have the option of complying with any one of the following: (1) The new presumptive output based NO_X emission limits provided in Table 4 of Subchapter 19; (2) the alternative compliance options, in § 19.3(f) of Subchapter 19, as described above, for stationary reciprocating engines; and (3) a SIP-approved compliance option pursuant to § 19.5(c) of Subchapter 19, which requires the owner or operator to obtain New Jersey's approval of its application demonstrating an insufficient supply of water to the turbine suitable for NO_X emission control and to establish that no commercially available dry-low NO_X combustor suitable for use in the specific turbine. It should be noted that EPA believes that the reference in § 19.5(d) to "(c)1 through 5 below" is a typographical error. EPA believes that the reference should read "(c)1 through 5 above," and that New Jersey should correct the error accordingly.

New Jersey also amended Subchapter 19 to require an owner or operator of a turbine, with a maximum gross heat input rate of at least 25 MM BTU/hr, to adjust the turbine's combustion process in accordance with the procedures specified in Subchapter 19, starting in either 2005 or 2007, depending upon the turbine's heat input rate.

Industrial/commercial/institutional boilers and other indirect heat exchangers. New Jersey amended Subchapter 19 by lowering certain presumptive NO_X emission limits and by lowering the applicability threshold for annual combustion process adjustments for industrial/commercial/institutional (ICI) boilers and other indirect heat exchangers (IHE). The amendments provide that, effective March 7, 2007, the NO_X emission limits for natural gas fired ICI boilers or other IHEs that have a maximum gross heat input rate of at least 100 MM BTU/hr is lowered to 0.10 lb NO_X/MM BTU from 0.20 lb NO_X/MM BTU and 0.43 lb NO_X/MM BTU. The change represents a reduction in NO_X emissions ranging from 50 percent to almost 77 percent, depending upon whether the firing method type is tangential, face or cyclone. New Jersey did not revise the NO_X emission limits for other size or type ICI boilers or other IHEs. The new NO_X emission limits for ICI boilers and other IHEs are in provided Table 7 of Subchapter 19.

As with owners and operators of stationary combustion turbines and stationary reciprocating engines, owners and operators of ICI boilers and other IHEs have the option of complying with either the new presumptive NO_X emission limits or the alternative compliance options, pursuant to § 19.3(f) of Subchapter 19, as described above for stationary reciprocating engines.

New Jersey also amended Subchapter 19 by lowering the applicability threshold of 20 MM BTU/hr heat input rate for sources required to annually adjust their combustion process. The amendments provide that, effective March 7, 2007, the applicability threshold for such sources is 5 MM BTU/hr maximum gross heat input rate. This threshold applies regardless of whether the source is located at a facility classified as major for NO_X. Effective in either 2007, 2008, or 2010, depending upon the source's heat input rate, owners or operators of such sources are required to adjust the combustion process in accordance with the procedures specified in Subchapter 19.

Emergency generators. New Jersey amended Subchapter 19 by adding a new provision, § 19.11, which requires owners and operators of emergency generators with a maximum rated output of 37 kW, to maintain detailed and specific records on site for five years whenever an emergency generator has been in use. In addition, New Jersey amended § 19.2(d) by deleting the following two conditions for an emergency generator exemption from Subchapter 19: (1) 500 hours operating restriction over any consecutive twelve month period; and (2) potential to emit (PTE) of less than 25 tpy NO_X emissions during an annual period of operation.

EPA has determined that New Jersey's additional amendments to § 19.2(d), and to the definition of emergency generators in § 19.1, clarify when emergency generators shall and shall not be used. These amendments combined with the new recordkeeping provisions in § 19.11 provide New Jersey and EPA with information for any enforcement action, if needed.

During the public comment period, a citizen commented that the removal of the 500 hour emergency operation time limit made the PTE analysis and netting analysis for a source ambiguous. EPA's September 1995 guidance entitled, "Calculating Potential to Emit (PTE) for Emergency Generators," establishes the criteria for determining a source's PTE and recommends 500 hours as an appropriate default assumption for estimating the number of hours an emergency generator could be expected to operate under worst-case conditions. EPA's PTE guidance for emergency generators also states that alternative estimates can be made on a case-by-case basis where justified by the source owner or permitting authority.

New Jersey deleted the 500 hour operating restriction for emergency generators from Subchapter 19 because it believed that "hours of operation" is not an appropriate criteria for defining an emergency generator. In a communication to EPA, New Jersey interpreted the EPA proposed rule "Standards of Performance for Stationary Compression Ignition Internal Combustion Engines" (70 FR 39869, July 11, 2005), as further justification for deletion of the 500 hour restriction. In a February 14, 2006 letter to New Jersey, EPA responded that New Jersey misinterpreted EPA's July 2005 proposed rule and that "for purposes of

the NSR and title V programs New Jersey should continue as they have and permit emergency units at some amount of operation sufficiently large to cover emergencies (i.e., 500 hours per year). Malfunctions that may require the operation of the emergency units and that may exceed the 500 hours/year limit could be handled through enforcement discretion on a case-by-case basis, as appropriate." Therefore, PTE requirements for emergency generators should be included in New Jersey's operating permit regulations, i.e., Subchapters 8 and 22, and should include the provisions that were deleted from the current SIP approved Subchapter 19, i.e., (1) the 500 hour annual operational restriction, or some other appropriate operating period in accordance with EPA's September 1995 guidance, and (2) the exemption for sources with a PTE of less than 25 tpy NO_X.

While EPA proposes to approve the new emergency generator provisions, for rule consistency, EPA believes it appropriate, although not required, that New Jersey revise the currently adopted Subchapter 19 to also include the emergency generator restrictions identified in the current SIP-approved Subchapter 19. EPA would consider new language within Subchapter 19 that would allow owners and operators to operate emergency generators without restriction to operating hours for special situations such as when the governor of New Jersey declared an emergency because of an unprecedented and unexpectedly long blackout or a *force majeure* event (like a severe hurricane).

Open Market Emissions Trading (OMET) Program. In July 1996, New Jersey adopted amendments to Subchapter 19 for consistency with the state-adopted Subchapter 30, called the OMET Program. The OMET Program, and amendments to Subchapter 19, permitted a source regulated under Subchapter 19 to meet its NO_X RACT emission requirements by purchasing discrete emission reduction credits (DERs). The DERs were generated by a source that reduced NO_X emissions beyond its regulatory requirements. EPA and New Jersey identified a number of problems with the OMET Program. EPA withdrew its proposed conditional approval of the OMET Program on October 18, 2002 and New Jersey terminated Subchapter 30 on February 25, 2004. On April 5, 2004, New Jersey amended Subchapter 19, withdrew the OMET provisions adopted in July 1996, and replaced them with new provisions that included a compliance schedule for the affected OMET sources. The latter OMET compliance provisions are included in New Jersey's December 2005 SIP revision to EPA.

EPA objected to the new OMET compliance schedule, and related compliance requirements for sources subject to NO_X RACT regulation. The new OMET compliance schedule would allow sources to comply with the NO_X RACT requirements of Subchapter 19 beyond the May 31, 1995 compliance date deadline mandated by the Act. In a December 2005 SIP submittal letter, New Jersey committed to delete OMET from Subchapter 19, and from Subchapters 8 and 16. Therefore, EPA expects New Jersey, in future rulemaking, to delete the OMET-related provisions in Subchapters 8, 16 and 19, i.e., §§ 8.3(o), 8.20(b)(3), 16.1A(g), 16.1A(h), 19.3(g), 19.3(h), 19.27, and the 19.27 Appendix, and is not approving them into the SIP.

Additional amendments to Subchapter 19. New Jersey adopted a number of other amendments since EPA last approved amendments to Subchapter 19 (64 FR 14832, March 29, 1999). Among other things, these amendments: (1) Revised terms and definitions that do not change the meaning or stringency of the provisions; (2) revised the due date for permit applications and submittals of NO_X Control Plans, pursuant to § 19.13, to February 7, 2006; (3) revised §§ 19.2 and 19.9 by deleting the applicability threshold of 25 tpy PTE NO_X for asphalt plants, which made the provisions more stringent; (4) revised the ozone season closing date to September 30 to conform with the closing date provided in Subchapter 31, the NO_X Budget Program; and (5) revised testing requirements to conform with certain new control measures for stationary reciprocating engines.

2. Subchapter 16

The amendments to Subchapter 16 are administrative in nature and ensure consistency with the amendments to Subchapter 19. The amendments to Subchapter 16 include the following: (1) Revised terms and definitions that do not change the meaning or stringency of the provisions; (2) lowered applicability thresholds for the following source categories that are required to implement annual combustion adjustments: (a) Small boilers and IHEs, not used for generating electricity; (b) stationary combustion turbines; and (c) stationary reciprocating engines, if used to generate electricity; and (3) a revised definition and recordkeeping requirements for emergency generators.

3. Summary of EPA's Evaluation

EPA expects that the revisions to Subchapter 19 will result in additional reductions in NO_X emissions to help New Jersey meet the emissions reduction shortfall and attain the ozone standard. EPA evaluated New Jersey's SIP submittal and proposes to find Subchapters 16 and 19 approvable. However, as explained above, EPA takes no action on and expects New Jersey to delete: (1) All OMET provisions in Subchapters 8, 16 and 19; (2) the new amendments to phased compliance plan through repowering in § 19.21; and (3) the new amendments to phased compliance plan through the use of innovative control technology in § 19.23. The December 16, 2005 SIP submittal will strengthen New Jersey's SIP for reducing ground level ozone by providing additional NO_X reductions beginning on March 7, 2007.

EPA completed a detailed analysis and evaluation to determine the approvability of New Jersey's December 16, 2005 SIP revision. EPA's evaluation of the SIP submittal is detailed in a document entitled "Technical Support Document—NO_X RACT SIP Revision—State of New Jersey." A copy of that document is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document or the Technical Support Document can be viewed at *http://www.regulations.gov.*

II. Conclusions

EPA evaluated New Jersey's submittal for consistency with the Act, EPA regulations and EPA policy. The proposed new control measures will strengthen the SIP by providing additional NO_X emission reductions. Accordingly, EPA is proposing to approve the revisions to Subchapter 19, and related revisions to Subchapter 16, as adopted on September 8, 2005, except that EPA is not acting, at this time, on OMET Program provisions in Subchapters 16 and 19 or the new amendments to phased compliance plans by repowering and innovative control technology in §§ 19.21 and 19.23, respectively. EPA is not approving any dates that allow for NO_X RACT compliance beyond May 31, 1995, in general, and beyond May 1, 1999 for completion of repowering for sources that should have complied by the date required in the March 29, 1999 EPA-approved SIP. In addition, at a later date, EPA will act on Subchapter 8, as adopted by New Jersey on September 8, 2005.

With the adoption of Subchapter 19, New Jersey has fulfilled its obligation to

adopt all six control measures that New Jersey identified as necessary to attain the 1-hour ozone standard. Therefore, EPA will not proceed with the May 27, 2004 (69 FR 30249) proposed Finding of Failure to Implement.

III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

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

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

Dated: March 6, 2007.

Alan J. Steinberg,

Regional Administrator, Region 2.

[FR Doc. E7–4665.Filed 3–13–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 07–805; MB Docket No. 05–132; RM–11217]

Radio Broadcasting Services; Junction, Melvin, and Menard, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; withdrawal.

SUMMARY: The staff approves the withdrawal of a petition for rulemaking in this FM allotment rulemaking proceeding *See* **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MB Docket No. 05–132, adopted February 21, 2007, and released February 23, 2007. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com*.

In response to a rulemaking petition filed by Charles Crawford, the *Notice of Proposed Rulemaking* proposed the allotment of Channel 242A at Melvin, Texas. To accommodate this allotment, it also proposed the substitution of Channel 292A for vacant Channel 242A at Menard, Texas, and the substitution of Channel 224A for vacant Channel 292A at Junction, Texas. The withdrawal of the petition for rulemaking complies with Section 1.420(j) of the Commission's rules because the rulemaking petitioner is not receiving any money or other consideration in return for the withdrawal. *See* 70 FR 19398 (April 13, 2005).

This document is not subject to the Congressional Review Act. (The Commission, is, therefore, not required to submit a copy of this Report and Order to GAO, pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A) because the petition for rulemaking was dismissed).

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E7–4544 Filed 3–13–07; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 350, 385, 395, and 396

[DOT Docket No. FMCSA–2004–18940]

RIN 2126–AA89

Electronic On-Board Recorders (EOBRs) for Documenting Hours of Service; Listening Sessions

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of public listening sessions.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) announces public listening sessions to

obtain feedback from interested parties on the Agency's January 18, 2007, notice of proposed rulemaking (NPRM) to establish new performance standards for EOBRs, require the use of these devices by certain motor carriers, and to provide incentives for the voluntary use of such devices by the industry. The listening sessions will provide all interested parties with an opportunity to share their views on the Agency's EOBR rulemaking. All oral comments will be transcribed and placed in the public docket identified at the beginning of this notice.

DATES: The listening sessions will be held on March 27, 2007, from 9:30 a.m. to 4:30 p.m., and on April 2, 2007, from 9:30 a.m. to 4:30 p.m. Individuals who wish to make a formal presentation at either of the meetings should contact Ms. Deborah Freund at 202–366–4009 or e-mail her at *deborah.freund@dot.gov* no later than 5 p.m., e.t., on March 23, 2007, for the March 27 meeting, and no later than 5 p.m., e.t., on March 29th for the April 2 meeting to ensure that sufficient time is allotted for the presentation and to identify any audio-visual equipment needed for the presentation.

ADDRESSES: The March 27, 2007, meeting will be held at the Crowne Plaza West Hotel, 2532 West Peoria Avenue, Phoenix, Arizona 85029. The April 2, 2007, meeting will be held at the Harold Washington Library, 400 South State Street, Chicago, Illinois 60605–1203. You may also submit comments to the DOT Docket Management System (DMS), referencing Docket Number FMCSA–2004–18940, using any of the following methods:

- *Web site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- *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., e.t., Monday through Friday, except Federal holidays.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions must include the Agency name and docket number or Regulatory Identification Number (RIN 2126–AA89) for this rulemaking. Note that all comments received will be posted without change to *http://dms.dot.gov* including any personal information provided. For additional information on submitting comments, see the Supplemental Information section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or 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., e.t., Monday through Friday, except Federal holidays

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Ms Deborah M. Freund, Senior Transportation Specialist, Vehicle and Roadside Operations Division, FMCSA, (202) 366–4009, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

Information on Services for Individuals with Disabilities: For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Deborah Freund at 202–366–4009.

SUPPLEMENTARY INFORMATION:

Background

On January 18, 2007 (72 FR 2340), FMCSA published an NPRM to amend the Federal Motor Carrier Safety Regulations (FMCSRs) to incorporate new performance standards for electronic on-board recorders (EOBRs) installed in commercial motor vehicles (CMVs) manufactured on or after the date 2 years following the effective date of the final rule. On-board hours-of-service recording devices meeting FMCSA's current requirements and voluntarily installed in CMVs manufactured before the implementation date of a final rule may continue to be used for the remainder of the service life of those CMVs.

Under the proposal, motor carriers that have demonstrated a history of serious noncompliance with the hours-of-service (HOS) rules would be subject to mandatory installation of EOBRs meeting the new performance standards. If FMCSA determined, based on HOS records reviewed during each of two compliance reviews conducted within a 2-year period, that a motor carrier had a 10 percent or greater violation rate ("pattern violation") for any regulation in proposed Appendix C to Part 385, FMCSA would issue the carrier an EOBR remedial directive. The motor carrier would be required to install EOBRs in all of its CMVs regardless of their date of manufacture. The motor carrier would have to use the devices for HOS recordkeeping for a period of 2 years, unless: (1) The carrier already had equipped its vehicles with automatic on-board recording devices (AOBRDs) meeting the Agency's current requirements under 49 CFR 395.15 and (2) could demonstrate to FMCSA that its drivers understood how to use the devices.

The FMCSA also proposed changes to the safety fitness standard that would require these carriers, i.e., those with a pattern of violations, to install, use, and maintain EOBRs in order to meet the new standard. Finally, the Agency would encourage industry wide use of EOBRs by providing the following incentives for motor carriers to voluntarily use EOBRs in their CMVs: (1) Revise the Agency's compliance review procedures to permit examination of a random sample of drivers' records of duty status; (2) provide partial relief from HOS supporting documents requirements, if certain conditions are satisfied; and (3) offer other potential incentives made possible by the inherent safety and driver health benefits of EOBR technology.

Purpose of the Listening Sessions

The FMCSA is committed to providing all interested parties an opportunity to discuss their perspectives on the pertinent issues that could affect any potential rulemaking changes. The Agency expects to receive numerous comments in response to its EOBR NPRM but believes additional information could be obtained through this listening session.

Participants in the listening session will be given the opportunity to submit questions that they would like to hear discussed by others in attendance. FMCSA encourages participants who have prepared statements to submit them to the public docket rather than using time at a listening session to read them aloud. Individuals who wish to submit written comments or statements should submit the information to the public docket identified at the beginning of this notice. Those who

desire notification of receipt of comments must include a self-addressed, stamped envelope or postcard. Comments made during the meeting will be transcribed to preserve an accurate record of the discussion.

Meeting Information

Individuals who are unable to attend the meetings may submit written comments to the docket identified at the beginning of this notice.

Issued on: March 7, 2007.

John H. Hill,

Administrator.

[FR Doc. 07–1209 Filed 3–9–07; 4:00 pm]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AU76

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for *Catesbaea melanocarpa*

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period, notice of availability of draft economic analysis, and amended required determinations.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the comment period on the proposed designation of critical habitat for the plant *Catesbaea melanocarpa* (no common name) and the availability of the draft economic analysis of the proposed designation of critical habitat under the Endangered Species Act of 1973, as amended (Act). The draft economic analysis identifies potential costs of approximately $132,300 to $441,000 over a 20-year period as a result of the proposed designation of critical habitat, including those costs coextensive with listing. We are reopening the comment period to allow all interested parties an opportunity to comment simultaneously on the proposed rule and the associated draft economic analysis. If you previously submitted comments on the proposed rule, you need not resubmit them, because we have incorporated them into the public record and will fully considered them in preparation of our final rule.

DATES: We will accept public comments on this document and the proposed rule published at 71 FR 48883, Aug. 22, 2006 until April 13, 2007.

ADDRESSES: If you wish to comment, you may submit your comments and information concerning this proposal by any one of several methods:

1. Mail or hand-deliver to Edwin E. Muñiz, Field Supervisor, U.S. Fish and Wildlife Service, Caribbean Fish and Wildlife Office, Road 301 Km. 5.1, P.O. Box 491, Boquerón, PR 00622.

2. Send by electronic mail (e-mail) to *marelisa_rivera@fws.gov*. Please see the "Public Comments Solicited" section below for file format and other information about electronic filing.

3. Fax to 787–851–7440.

4. Submit comments on the Federal E-Rulemaking Portal at *http://www.regulations.gov*. Follow the instructions for submitting comments.

Comments and materials we receive, as well as supporting documentation we used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the Caribbean Fish and Wildlife Office at the above address.

FOR FURTHER INFORMATION CONTACT: Marelisa Rivera, Caribbean Fish and Wildlife Office (see **ADDRESSES**); telephone, 787–851–7297, extension 231; facsimile, 787–851–7440. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, we hereby solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule and the draft economic analysis. We particularly seek comments concerning:

(1) The reasons we should or should not determine any habitat to be critical habitat as provided by section 4 of the Act;

(2) Specific information on the presence of *Catesbaea melanocarpa*, particularly: of the areas that were occupied at the time of listing and contain features that are essential for the conservation of the species, which areas we should include in the designations, and why; and, of the areas that were not occupied at listing, which are essential to the conservation of the species, and why;

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(4) Any foreseeable economic, national security, or other potential impacts resulting from the proposed designation and, in particular, any impacts on small entities;

(5) Whether the draft economic analysis identifies all State and local costs attributable to the proposed critical habitat designation, and information on any costs that we may have inadvertently overlooked;

(6) Whether the draft economic analysis makes appropriate assumptions regarding current practices and likely regulatory changes imposed as a result of the designation of critical habitat;

(7) Whether the draft economic analysis correctly assesses the effect on regional costs associated with any land use controls that may derive from the designation of critical habitat;

(8) Any foreseeable economic or other impacts resulting from the proposed designation of critical habitat, and in particular, any impacts on small entities or families; and other information that would indicate that the designation of critical habitat would or would not have any impacts on small entities or families;

(9) Whether the draft economic analysis appropriately identifies all costs and benefits that could result from the designation;

(10) Whether we could improve or modify our approach to critical habitat designation in any way, to provide for greater public participation and understanding, or to assist us in accommodating public concern and comments; and

(11) Whether the benefits of exclusion in any particular area outweigh the benefits of inclusion.

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods (see **ADDRESSES**). Please submit comments electronically to *marelisa_rivera@fws.gov*. Please also include "Attn: *Catesbaea melanocarpa*" in your e-mail subject header, and your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your electronic message, contact us directly by calling the Caribbean Fish and Wildlife Service Office at 787–851–7297.

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 names and home addresses, etc., but if you wish us to consider withholding this information, you must state this prominently at the beginning of your comments. In

addition, you must present rationale for withholding this information. This rationale must demonstrate that disclosure would constitute a clearly unwarranted invasion of privacy. Unsupported assertions will not meet this burden. In the absence of exceptional, documentable circumstances, we will release this information. We will always make submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials we receive will be available for public inspection, by appointment, during normal business hours at the Caribbean Fish and Wildlife Office (see **ADDRESSES**).

You may obtain copies of the proposed rule and draft economic analysis for critical habitat designation by mail from the Caribbean Fish and Wildlife Office at the address listed under **ADDRESSES** or on the Internet at *http://www.fws.gov/southeast.*

Our final designation of critical habitat will take into consideration all comments and any additional information we receive during both comment periods. On the basis of public comment on this analysis and on the critical habitat proposal, and the final economic analysis, we may, during the development of our final determination, find that areas we proposed are not essential, are appropriate for exclusion under section 4(b)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) (Act), or not appropriate for exclusion. An area may be excluded from critical habitat if we determine that the benefits of such exclusion outweigh the benefits of including a particular area as critical habitat, unless the failure to designate such area as critical habitat will result in the extinction of the species. We may exclude an area from designated critical habitat based on economic impacts, national security, or any other relevant impact.

Background

On August 22, 2006, we published a proposed rule to designate critical habitat for *Catesbaea melanocarpa* (71 FR 48883). We proposed to designate approximately 50 acres (ac) (20 hectares (ha)) in one unit located in Christiansted, St. Croix, U.S. Virgin Islands, as critical habitat for *C. melanocarpa*. We will submit for publication in the **Federal Register** a final critical habitat designation for *C. melanocarpa* on or before August 15, 2007.

Critical habitat is defined in section 3 of the Act as the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features essential to the conservation of the species and that may require special management considerations or protection, and specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. If we make our proposed rule final, section 7 of the Act will prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions affecting areas we have designated as critical habitat must consult with us on the effects of their proposed actions, pursuant to section 7(a)(2) of the Act.

Economic Analysis

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific data available, after taking into consideration the economic or any other relevant impact of specifying any particular area as critical habitat. Based on the August 22, 2006, proposed rule (71 FR 48883) to designate critical habitat for *Catesbaea melanocarpa*, we have prepared a draft economic analysis of the proposed critical habitat designation.

The draft economic analysis considers the potential economic effects of actions relating to the conservation of *Catesbaea melanocarpa*, including costs associated with sections 4, 7, and 10 of the Act, and including those attributable to designating critical habitat. It further considers the economic effects of protective measures taken as a result of other Federal, State, and local laws that aid habitat conservation for *C. melanocarpa* in the critical habitat area. The draft analysis considers both economic efficiency and distributional effects. In the case of habitat conservation, efficiency effects generally reflect the "opportunity costs" associated with the commitment of resources to comply with habitat protection measures (such as lost economic opportunities associated with restrictions on land use). This analysis also addresses how potential economic impacts are likely to be distributed, including an assessment of any local or regional impacts of habitat conservation and the potential effects of conservation activities on small entities and the energy industry. Decision-makers can use this information to assess whether the effects of the designation might unduly burden a particular group or economic sector. Finally, this draft analysis looks retrospectively at costs incurred since the date we listed the species as endangered (64 FR 13116, March 17, 1999) and considers those costs that may occur in the 20 years following a designation of critical habitat.

The draft economic analysis estimates the foreseeable economic impacts of the proposed critical habitat designation on government agencies and private businesses and individuals. The draft economic analysis identifies potential costs of approximately $132,300 to $441,000 to the private landowners over a 20-year period as a result of the proposed designation of critical habitat, including those costs coextensive with listing. The analysis measures lost economic efficiency associated with residential and commercial development, and public projects and activities. Overall, the analysis does not anticipate a decrease in the amount of construction activity on St. Croix as a result of the proposed rule. As a result, we do not anticipate small developers and construction firms to be affected.

As stated earlier, we solicit data and comments from the public on this draft economic analysis, as well as on all aspects of the proposal. We may revise the proposal, or its supporting documents, to incorporate or address new information we receive during the comment period.

Required Determinations—Amended

In our August 22, 2006, proposed rule (71 FR 48883), we indicated that we would be deferring our determination of compliance with several statutes and Executive Orders until the information concerning potential economic impacts of the designation and potential effects on landowners and stakeholders was available in the draft economic analysis. Those data are now available for our use in making these determinations. In this notice, we are affirming the information contained in the proposed rule concerning Executive Order 13132 and Executive Order 12988; the Paperwork Reduction Act; and the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951). Based on the information made available to us in the draft economic analysis, we are amending our Required Determinations, as provided below, concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Order 13211, Executive Order 12630.

and the Unfunded Mandates Reform Act.

Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule because it may raise novel legal and policy issues. Based on our draft economic analysis of the proposed designation of critical habitat for *Catesbaea melanocarpa*, we estimate costs related to conservation activities for *C. melanocarpa* pursuant sections 4, 7, and 10 of the Act to range from $132,300 to $441,000 over a 20-year period. Therefore, based on our draft economic analysis, we do not anticipate that the proposed designation of critical habitat would result in an annual effect on the economy of $100 million or more or affect the economy in a material way. Due to the timeline for publication in the **Federal Register**, the Office of Management and Budget did not formally review the proposed rule or accompanying draft economic analysis.

Further, Executive Order 12866 directs Federal agencies promulgating regulations to evaluate regulatory alternatives (Office of Management and Budget, Circular A–4, September 17, 2003). Pursuant to Circular A–4, once an agency has determined that the Federal regulatory action is appropriate, the agency will need to consider alternative regulatory approaches. Since the determination of critical habitat is a statutory requirement under the Act, we must then evaluate alternative regulatory approaches, where feasible, when promulgating a designation of critical habitat.

In developing our designations of critical habitat, we consider economic impacts, impacts to national security, and other relevant impacts pursuant to section 4(b)(2) of the Act. Based on the discretion allowable under this provision, we may exclude any particular area from the designation of critical habitat providing that the benefits of such exclusion outweigh the benefits of specifying the area as critical habitat and that such exclusion would not result in the extinction of the species. We believe that the evaluation of the inclusion or exclusion of particular areas, or combination thereof, in a designation constitutes our regulatory alternative analysis.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. In our proposed rule, we withheld our determination of whether this designation would result in a significant effect as defined under SBREFA until we completed our draft economic analysis of the proposed designation so that we would have the factual basis for our determination.

According to the Small Business Administration (SBA), small entities include small organizations, such as independent nonprofit organizations, and small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents, as well as small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term significant economic impact is meant to apply to a typical small business firm's business operations.

To determine if the proposed designation of critical habitat for *C. melanocarpa* would affect a substantial number of small entities, we considered the number of small entities affected within particular types of economic activities (such as residential and commercial development). We considered each industry or category individually to determine if certification is appropriate. In estimating the numbers of small entities potentially affected, we also considered whether their activities have any Federal involvement; some kinds of activities are unlikely to have any Federal involvement and so will not be affected by the designation of critical habitat. Designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies; non-Federal activities are not affected by the designation.

In our draft economic analysis of the proposed critical habitat designation, we evaluated the potential economic effects on small business entities resulting from conservation actions related to the listing of *Catesbaea melanocarpa* and proposed designation of critical habitat. The property proposed for designation is managed by the Virgin Islands Title and Trust Company on behalf of several individual landowners. This analysis estimates that these landowners could lose from $132,300 to $441,000 over a 20-year period. However, private landowners are generally not considered to be small entities. Furthermore, this analysis does not anticipate a decrease in the amount of construction activity on St. Croix as a result of the proposed rule. As a result, we do not anticipate that small developers and construction firms would be affected. Please refer to our draft economic analysis of the proposed critical habitat designation for a more detailed discussion of potential economic impacts.

Executive Order 13211—Energy Supply, Distribution, and Use

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This proposed designation of critical habitat for *Catesbaea melanocarpa* is considered a significant regulatory action under Executive Order 12866 due to its potential raising of novel legal and policy issues. The Office of Management and Budget has provided guidance for implementing this Executive Order that outlines nine outcomes that may constitute "a significant adverse effect" when compared without the regulatory action under consideration. The draft economic analysis finds that none of these criteria are relevant to this analysis. Thus, based on the information in the draft economic analysis, we do not expect energy-related impacts associated with *C. melanocarpa* conservation activities within proposed critical habitat. As such, we do not expect the proposed designation of critical habitat to significantly affect energy supplies, distribution, or use. A Statement of Energy Effects is not required.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we make the following findings:

(a) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or tribal governments, or the private sector, and includes both "Federal intergovernmental mandates" and "Federal private sector mandates." These terms are defined in 2 U.S.C. 658(5)–(7). "Federal intergovernmental mandate" includes a regulation that "would impose an enforceable duty upon State, local, or tribal governments," with two exceptions. It excludes "a condition of federal assistance." It also excludes "a duty arising from participation in a voluntary Federal program," unless the regulation "relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority," if the provision would "increase the stringency of conditions of assistance" or "place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding" and the State, local, or Tribal governments "lack authority" to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. "Federal private sector mandate" includes a regulation that "would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance; or (ii) a duty arising from participation in a voluntary Federal program."

The designation of critical habitat does not impose a legally binding duty on non-Federal government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7 of the Act. Non-Federal entities that receive Federal funding, assistance, or permits, or otherwise require approval or authorization from a Federal agency for an action may be indirectly impacted by the designation of critical habitat. However, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply; nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

(b) As discussed in the draft economic analysis of the proposed designation of critical habitat for *Catesbaea melanocarpa*, we expect the impacts on nonprofits and small governments to be negligible. There is no record of consultations between us and any of these governments since we listed *C. melanocarpa* as endangered on March 17, 1999 (64 FR 13116). It is likely that small governments involved with developments and infrastructure projects will be interested parties or involved with projects involving section 7 (of the Act) consultations for *C. melanocarpa* within their jurisdictional areas. Any costs associated with this activity are likely to represent a small portion of a local government's budget. Consequently, we do not believe that the designation of critical habitat for *C. melanocarpa* will significantly or uniquely affect these small governmental entities. As such, a Small Government Agency Plan is not required.

Executive Order 12630—Takings

In accordance with Executive Order 12630 ("Government Actions and Interference with Constitutionally Protected Private Property Rights"), we have analyzed the potential takings implications of proposing critical habitat for *Catesbaea melanocarpa*. Critical habitat designation does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to permit actions that do require Federal funding or permits to go forward. In conclusion, the designation of critical habitat for *C. melanocarpa* does not pose significant takings implications.

Author

The primary authors of this notice are the staff of the Caribbean Fish and Wildlife Service Office.

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: March 5, 2007.

David M. Verhey,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. E7–4542 Filed 3–13–07; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 72, No. 49
Wednesday, March 14, 2007

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2007–0009]

Notice of Request for Approval of an Information Collection; National Animal Identification System; Species Data by State

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: New information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to initiate a new information collection activity for collection of species data by State as part of the National Animal Identification System.

DATES: We will consider all comments that we receive on or before May 14, 2007.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov,* select "Animal and Plant Health Inspection Service" from the agency drop-down menu, then click "Submit." In the Docket ID column, select APHIS–2007–0009 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's "User Tips" link.
- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2007–0009, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2007–0009.

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

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

FOR FURTHER INFORMATION CONTACT: For information on an information collection activity for collection of species data by State as part of the National Animal Identification System, contact Dr. John Wiemers, National Animal Identification Staff, VS, 2100 Lake Storey Road, Galesburg, IL 61401; (309) 344–1942. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: National Animal Identification System; Species Data by State.

OMB Number: 0579–XXXX.

Type of Request: Approval of a new information collection.

Abstract: As part of ongoing efforts to safeguard animal health, the U.S. Department of Agriculture initiated implementation of a National Animal Identification System (NAIS) in 2004. The NAIS is a cooperative State-Federal-industry program administered by USDA's Animal and Plant Health Inspection Service (APHIS). The purpose of the NAIS is to provide a streamlined information system that will help producers and animal health officials respond quickly and effectively to animal disease events in the United States.

The first component of the program, premises registration, is well underway and the second component, animal identification, is being implemented for several species. The third component, animal tracing, is currently under development with USDA's State and industry partners. Industry, through private systems, and States will manage the animal tracking databases that maintain the movement records of animals. These information systems will provide the location of a subject animal and the records of other animals that the subject animal came into contact with at each premises. Participation in any component of the program is voluntary.

Premises registration, the foundation of NAIS, is critical to rapidly detecting and evaluating the scope of animal disease outbreaks, controlling emergency program budgets, and improving emergency response efficiency. Having the ability to plot locations within a radius of affected premises will help determine the potential magnitude of a disease event and the resources that are needed to adequately respond in an effective manner. This can be accomplished only if the affected premises and other premises in the area have been registered. All 50 States, 60 Native American Tribes, and 2 territories are currently participating in premises registration. More than 350,000 premises have been registered to date.

To encourage participation in premises registration, there is an emphasis, at the national level, on industry organizations (pork, beef, etc.) registering premises through cooperative agreements with APHIS. To track progress that will be made as a result of these efforts, APHIS needs reports of premises registered by species. APHIS needs assistance from each State to provide "species at the premises" statistics, since this information is stored only at the State level, rather than in the National Information Records Repository (NPRR).

For States that use USDA's Standardized Premises Registration System, APHIS is able to generate a report of species information by State, but only with the written permission of each State animal health official. As indicated earlier, this is because the species data is kept only at the State level and not in the NPRR.

APHIS is asking States that wish to gather this information themselves to include this information in the quarterly cooperative agreement progress reports they submit to APHIS.

We are asking OMB to approve our use of these information collection activities for 3 years.

The purpose of this notice is to solicit comments from the public (as well as

affected agencies) concerning our information collection. These comments will help us:

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

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

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

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

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.5 hours per response.

Respondents: Governmental entities participating in the premises registration component of the NAIS for States, Tribes, and territories.

Estimated annual number of respondents: 15.

Estimated annual number of responses per respondent: 4.

Estimated annual number of responses: 60.

Estimated total annual burden on respondents: 30 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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

Done in Washington, DC, on March 8, 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–4646 Filed 3–13–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Availability of Funds and Request for Application for Competitive Cooperative Partnership Agreements—Correction

Funding Opportunity Title: Commodity Partnerships for Risk Management Education (Commodity Partnerships Program)

Catalog of Federal Domestic Assistance Number (CFDA): 10.457.

Dates: Applications are due 5 p.m. EDT, April 23, 2007.

Summary: Due to an error in the Application Deadline (Section IV—Application and Submission Information, C. Submission Dates and Times), the following notice supersedes the original Request for Applications, published on March 7, 2007 for Commodity Partnerships for Risk Management Education (Commodity Partnerships Program) at 72 FR 10113–10121.

The Federal Crop Insurance Corporation (FCIC), operating through the Risk Management Agency (RMA), announces the availability of approximately $5.0 million for Commodity Partnerships for Risk Management Education (the Commodity Partnerships Program). The purpose of this cooperative partnership agreement program is to deliver training and information in the management of production, marketing, and financial risk to U.S. agricultural producers. The program gives priority to educating producers of crops currently not insured under Federal crop insurance, specialty crops, and underserved commodities, including livestock and forage. A maximum of 50 cooperative partnership agreements will be funded, with no more than five in each of the ten designated RMA Regions. The maximum award for any of the 50 cooperative partnership agreements will be $100,000. Applicants must demonstrate non-financial benefits from a cooperative partnership agreement and must agree to the substantial involvement of RMA in the project.

This announcement consists of eight sections:

I. Funding Opportunity Description

A. Legislative Authority

The Commodity Partnerships Program is authorized under section 522(d)(3)(F) of the Federal Crop Insurance Act (Act) (7 U.S.C. 1522(d)(3)(F)).

B. Background

RMA promotes and regulates sound risk management solutions to improve the economic stability of American agriculture. On behalf of FCIC, RMA does this by offering Federal crop insurance products through a network of private-sector partners, overseeing the creation of new risk management products, seeking enhancements in existing products, ensuring the integrity of crop insurance programs, offering outreach programs aimed at equal access and participation of underserved communities, and providing risk management education and information. One of RMA's strategic goals is to ensure that its customers are well informed as to the risk management solutions available. This educational goal is supported by section 522(d)(3)(F)

of the Act, which authorizes FCIC funding for risk management training and informational efforts for agricultural producers through the formation of partnerships with public and private organizations. With respect to such partnerships, priority is to be given to reaching producers of Priority Commodities, as defined below.

C. Definition of Priority Commodities

For purposes of this program, Priority Commodities are defined as:

• *Agricultural commodities covered by (7 U.S.C. 7333).* Commodities in this group are commercial crops that are not covered by catastrophic risk protection crop insurance, are used for food or fiber (except livestock), and specifically include, but are not limited to, floricultural, ornamental nursery, Christmas trees, turf grass sod, aquaculture (including ornamental fish), and industrial crops.

• *Specialty crops.* Commodities in this group may or may not be covered under a Federal crop insurance plan and include, but are not limited to, fruits, vegetables, tree nuts, syrups, honey, roots, herbs, and highly specialized varieties of traditional crops.

• *Underserved commodities.* This group includes: (a) Commodities, including livestock and forage, that are covered by a Federal crop insurance plan but for which participation in an area is below the national average; and (b) commodities, including livestock and forage, with inadequate crop insurance coverage.

A project is considered as giving priority to Priority Commodities if the majority of the educational activities of the project are directed to producers of any of the three classes of commodities listed above or any combination of the three classes.

D. Project Goal

The goal of this program is to ensure that "producers will be better able to use financial management, crop insurance, marketing contracts, and other existing and emerging risk management tools."

E. Purpose

The purpose of the Commodity Partnership Program is to provide U.S. farmers and ranchers with training and informational opportunities to be able to understand:

• The kinds of risks addressed by existing and emerging risk management tools;

• The features and appropriate use of existing and emerging risk management tools; and

• How to make sound risk management decisions.

F. Objectives

For 2007, the FCIC Board of Directors and the FCIC Manager are seeking projects with priorities that include the project objectives listed below which highlight the educational priorities within each RMA Region. The objectives are listed in priority order, with the most important objective designated as 1, the second most important designated as 2, etc. The order of priority will be considered in making awards. Applicants may propose other topics within any project objective but justification for those topics must be provided. RMA encourages applications that address multiple objectives, but each application must specify a single primary objective for funding purposes in an RMA Region. Applications that do not clearly specify a single primary objective for funding purposes in an RMA Region will be rejected. "Unrestricted Risk Management Topics" are topics that address the Commodity Partnership Program purpose as listed above in Section I *E.* In order of priority, the project objectives are:

Billings, MT Region: (MT, ND, SD, and WY)

1. Unrestricted Risk Management Topics (Two funded projects).
2. Adjusted Gross Revenue (AGR)-Lite Insurance Tools (MT, WY).
3. Pasture Rangeland and Forage (PRF) Rainfall Index Insurance Tools (ND).
4. PRF Vegetative Index Insurance Tools (SD).

Davis, CA Region: (AZ, CA, HI, NV, and UT)

1. Unrestricted Risk Management Topics (Two funded projects).
2. AGR (CA) and AGR-Lite Insurance Tools (AZ, HI, NV, UT).
3. Livestock Risk Protection (LRP) Insurance Tools (CA, NV, UT).
4. Hawaii Tropical Fruit Tree Insurance Tools (HI).

Jackson, MS Region: (AR, KY, LA, MS, and TN)

1. Unrestricted Risk Management Topics (Two funded projects).
2. Record Keeping Requirements for AGR-Lite Insurance Tools (TN).
3. LRP Insurance Tools, PRF Rainfall Index and the PRF Vegetation Index Insurance Tools (AR, KY, LA, MS, and TN).
4. Nursery Price Endorsement Crop Insurance Tool (AR, KY, LA, MS, and TN).

Oklahoma City, OK Region: (NM, OK, and TX)

1. Unrestricted Risk Management Topics (Two funded projects).
2. AGR-Lite Insurance Tools (NM).
3. PRF Rainfall Index (TX) and the PRF Vegetation Index (OK) Insurance Tools.
4. LRP (OK, TX) Insurance Tools.

Raleigh, NC Region: (CT, DE, MA, MD, ME, NC, NH, NY, NJ, PA, RI, VA, VT, and WV)

1. Unrestricted Risk Management Topics (Two funded projects).
2. Aquaculture (Clams) Insurance Tools—(MA, VA).
3. Nursery Insurance Tools—(CT, DE, MA, ME, MD, NC, NH, NY, NJ, PA, RI, VA, VT, and WV).
4. AGR Insurance Tools—(CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VT, and VA), AGR-Lite Insurance Tools—(CT, DE, MA, ME, MD, NC, NH, NY, NJ, PA, RI, VA, VT, and WV), Livestock and LRP Insurance Tools—(WV), PRF Rainfall Index and the PRF Vegetation Index Insurance Tools—(PA)

Spokane, WA Region: (AK, ID, OR, and WA)

1. Unrestricted Risk Management Topics (Two funded projects).
2. AGR-Lite Insurance Tools (Willamette Valley of OR and in Western WA).
3. PRF Rainfall Index Insurance Tool (ID) and PRF Vegetation Index Insurance Tool (OR).
4. LRP Lamb Pilot Insurance Tools (ID and OR).

Springfield, IL Region: (IL, IN, MI, and OH)

1. Unrestricted Risk Management Topics (Two funded projects).
2. AGR (MI), LRP Insurance Tools, PRF Rainfall index and PRF Vegetation Index Insurance Tools (IL, IN, MI, OH).
3. Cherry Pilot Insurance Tools (MI).
4. Grape Insurance Tools (IL, IN, MI, OH).

St. Paul, MN Region: (IA, MN, and WI)

1. Unrestricted Risk Management Topics (Two funded projects).
2. AGR-Lite Insurance Tools (MN and WI).
3. LRP and Livestock Gross Margin (LGM) Insurance Tools.
4. Hybrid Corn Seed Insurance Tools (IA, MN, and WI)

Topeka, KS Region: (CO, KS, MO, and NE)

1. Unrestricted Risk Management Topics (Two funded projects).
2. AGR-Lite Insurance Tools (CO, KS).
3. PRF Rainfall Index and PRF Vegetation Index Insurance Tools (CO).

4. Documentation Requirements for Irrigation Availability (CO, KS, NE)

Valdosta, GA Region: (AL, FL, GA, SC, and Puerto Rico)

1. Unrestricted Risk Management Topics (Two funded projects).
2. PRF Rainfall Index and PRF Vegetation Index Insurance Tools (SC).
3. AGR-Lite Insurance Tools (AL, FL, GA and SC).
4. Avocado Fruit (Dade County, FL) and Citrus Insurance Tools (FL)

II. Award Information

A. Type of Award

Cooperative Partnership Agreements, which require the substantial involvement of RMA.

B. Funding Availability

Approximately $5,000,000 is available in fiscal year 2007 to fund up to 50 cooperative partnership agreements. The maximum award will be $100,000. It is anticipated that a maximum of five agreements will be funded for each designated RMA Region. Applicants should apply for funding under that RMA Region where the educational activities will be directed.

In the event that all funds available for this program are not obligated after the maximum number of agreements are awarded or if additional funds become available, these funds may, at the discretion of the Manager of FCIC, be used to award additional applications that score highly by the technical review panel or allocated pro-rata to awardees for use in broadening the size or scope of awarded projects if agreed to by the awardee. In the event that the Manager of FCIC determines that available RMA resources cannot support the administrative and substantial involvement requirements of all agreements recommended for funding, the Manager may elect to fund fewer agreements than the available funding might otherwise allow. It is expected that the awards will be made approximately 60 days after the application deadline. All awards will be made and agreements finalized no later than September 30, 2007.

C. Location and Target Audience

RMA Regional Offices and the States serviced within each Region are listed below. Staff from the respective RMA Regional Offices will provide substantial involvement for projects conducted within their Region.

Billings, MT Regional Office: (MT, ND, SD, and WY)
Davis, CA Regional Office: (AZ, CA, HI, NV, and UT)
Jackson, MS Regional Office: (AR, KY, LA, MS, and TN)
Oklahoma City, OK Regional Office: (NM, OK, and TX)
Raleigh, NC Regional Office: (CT, DE, MA, MD, ME, NC, NH, NJ, NY, PA, RI, VA, VT, and WV)
Spokane, WA Regional Office: (AK, ID, OR, and WA)
Springfield, IL Regional Office: (IL, IN, MI, and OH)
St. Paul, MN Regional Office: (IA, MN, and WI)
Topeka, KS Regional Office: (CO, KS, MO, and NE)
Valdosta, GA Regional Office: (AL, FL, GA, SC, and Puerto Rico)

Applicants must clearly designate in their application narratives the RMA Region where educational activities will be conducted, the specific groups of producers within the region that the applicant intends to reach through the project, and must clearly designate in their application the primary educational objective listed in Section I (F) that the project will address. Priority will be given to producers of Priority Commodities. Applicants proposing to conduct educational activities in more than one RMA Region must submit a separate application for each RMA Region. Single applications proposing to conduct educational activities in more than one RMA Region will be rejected.

D. Maximum Award

Any application that requests Federal funding of more than $100,000 will be rejected. RMA also reserves the right to fund successful applications at an amount less than requested if it is judged that the application can be implemented at a lower funding level.

E. Project Period

Projects will be funded for a period of up to one year from the project starting date.

F. Awardee Tasks

In conducting activities to achieve the purpose and goal of this program in a designated RMA Region, the awardee will be responsible for performing the following tasks:

- Develop and conduct a promotional program. This program will include activities using media, newsletters, publications, or other appropriate informational dissemination techniques that are designed to: (a) Raise awareness for risk management; (b) inform producers of the availability of risk management tools; and (c) inform producers and agribusiness leaders in the designated RMA Region of training and informational opportunities.
- Deliver risk management training and informational opportunities to agricultural producers and agribusiness professionals in the designated RMA Region. This will include organizing and delivering educational activities using instructional materials that have been assembled to meet the local needs of agricultural producers. Activities should be directed primarily to agricultural producers, but may include those agribusiness professionals that have frequent opportunities to advise producers on risk management tools and decisions.
- Document all educational activities conducted under the partnership agreement and the results of such activities, including criteria and indicators used to evaluate the success of the program. The awardee may also be required to provide information to an RMA-selected contractor to evaluate all educational activities and advise RMA as to the effectiveness of activities.

G. RMA Activities

FCIC, working through RMA, will be substantially involved during the performance of the funded project through RMA's ten Regional Offices. Potential types of substantial involvement may include, but are not limited to the following activities.

- Assist in the selection of subcontractors and project staff.
- Collaborate with the awardee in assembling, reviewing, and approving risk management materials for producers in the designated RMA Region.
- Collaborate with the awardee in reviewing and approving a promotional program for raising awareness for risk management and for informing producers of training and informational opportunities in the RMA Region.
- Collaborate with the awardee on the delivery of education to producers and agribusiness leaders in the RMA Region. This will include: (a) Reviewing and approving in advance all producer and agribusiness leader educational activities; (b) advising the project leader on technical issues related to crop insurance education and information; and (c) assisting the project leader in informing crop insurance professionals about educational activity plans and scheduled meetings.
- Conduct an evaluation of the performance of the awardee in meeting the deliverables of the project.

Applications that do not contain substantial involvement by RMA will be rejected.

H. Other Tasks

In addition to the specific, required tasks listed above, the applicant may propose additional tasks that would contribute directly to the purpose of this program. For any proposed additional task, the applicant must identify the objective of the task, the specific subtasks required to meet the objective, specific time lines for performing the subtasks, and the specific responsibilities of partners. The applicant must also identify specific ways in which RMA would have substantial involvement in the proposed project task.

III. Eligibility Information

A. Eligible Applicants

Eligible applicants include State departments of agriculture, universities, non-profit agricultural organizations, and other public or private organizations with the capacity to lead a local program of risk management education for farmers and ranchers in an RMA Region. Individuals are not eligible applicants. Although an applicant may be eligible to compete for an award based on its status as an eligible entity, other factors may exclude an applicant from receiving Federal assistance under this program governed by Federal law and regulations (*e.g.* debarment and suspension; a determination of non-performance on a prior contract, cooperative agreement, grant or partnership; a determination of a violation of applicable ethical standards; a determination of being considered "high risk"). Applications from ineligible or excluded persons will be rejected in their entirety.

B. Cost Sharing or Matching

Although RMA prefers cost sharing by the applicant, this program has neither a cost sharing nor a matching requirement.

C. Other—Non-Financial Benefits

To be eligible, applicants must also be able to demonstrate that they will receive a non-financial benefit as a result of a partnership agreement. Non-financial benefits must accrue to the applicant and must include more than the ability to provide employment income to the applicant or for the applicant's employees or the community. The applicant must demonstrate that performance under the partnership agreement will further the specific mission of the applicant (such as providing research or activities necessary for graduate or other students to complete their educational program). Applicants that do not demonstrate a non-financial benefit will be rejected.

IV. Application and Submission Information

A. Contact To Request Application Package

Program application materials for the Commodity Partnerships Program under this announcement may be downloaded from *http://www.rma.usda.gov/aboutrma/agreements.* Applicants may also request application materials from: Lon Burke, USDA–RMA–RME, phone: (202) 720–5265, fax: (202) 690–3605, e-mail: *RMA.Risk-Ed@rma.usda.gov.*

B. Content and Form of Application Submission

A complete and valid application package must include an electronic copy (Microsoft Word format preferred) of the narrative portion (Forms RME 1 and RME–2) of the application package on a compact disc and an original and two copies of the completed and signed application must be submitted in one package at the time of initial submission, which must include the following:

1. A completed and signed OMB Standard Form 424, "Application for Federal Assistance."

2. A completed and signed OMB Standard Form 424-A, "Budget Information—Non-construction Programs." Federal funding requested (the total of direct and indirect costs) must not exceed $100,000.

3. A completed and signed OMB Standard Form 424-B, "Assurances, Non-constructive Programs."

4. Risk Management Education Project Narrative (Form RME–1). Complete all required parts of Form RME–1:

Part I—Title Page

Part II—A written narrative of no more than 10 single-sided pages which will provide reviewers with sufficient information to effectively evaluate the merits of the application according to the evaluation criteria listed in this notice. Although a Statement of Work, which is the third evaluation criterion, is to be completed in detail in RME Form-2, applicants may wish to highlight certain unique features of the Statement of Work in Part II for the benefit of the evaluation panel. If your narrative exceeds the page limit, only the first 10 pages will be reviewed.

- No smaller than 12 point font size.
- Use an easily readable font face (*e.g.*, Arial, Geneva, Helvetica, Times Roman).
- 8.5 by 11 inch paper.
- One-inch margins on each page.
- Printed on only one side of paper.
- Held together only by rubber bands or metal clips; not bound or stapled in any other way.

Part III—A Budget Narrative, describing how the categorical costs listed on SF 424-A are derived. The budget narrative should provide enough detail for reviewers to easily understand how costs were determined and how they relate to the goals and objectives of the project.

Part IV—Provide a "Statement of Non-financial Benefits." (Refer to Section III, Eligibility Information, C. Other—Non-financial Benefits, above).

5. "Statement of Work," Form RME–2, which identifies tasks and subtasks in detail, expected completion dates and deliverables, and RMA's substantial involvement role for the proposed project.

Applications that do not include items 1–5 above will be considered incomplete and will not receive further consideration and will be rejected.

C. Submission Dates and Times

Applications Deadline: Applications are due 5 p.m. EDT, April 23, 2007. Applicants are responsible for ensuring that RMA receives a complete application package by the closing date and time. USPS mail sent to Washington, DC headquarters is sanitized offsite, which may result in delays, loss, and physical damage to enclosures. Regardless of the delivery method you choose, please do so sufficiently in advance of the due date to ensure your application package is received on or before the deadline. It is your responsibility to meet the due date and time. E-mailed and faxed applications will not be accepted. Late application packages will not receive further consideration and will be rejected.

D. Funding Restrictions

Cooperative partnership agreement funds may not be used to:

a. Plan, repair, rehabilitate, acquire, or construct a building or facility including a processing facility;

b. Purchase, rent, or install fixed equipment;

c. Repair or maintain privately owned vehicles;

d. Pay for the preparation of the cooperative partnership agreement application;

e. Fund political activities;

f. Purchase alcohol, food, beverage, or entertainment;

g. Pay costs incurred prior to receiving a partnership agreement;

h. Fund any activities prohibited in 7 CFR Parts 3015 and 3019, as applicable.

E. Limitation on Use of Project Funds for Salaries and Benefits

Total costs for salary and benefits allowed for projects under this announcement will be limited to not more than 60 percent reimbursement of the funds awarded under the cooperative partnership agreement as indicated in Section III. Eligibility Information, C. Other—Non-financial Benefits. One goal of the Commodity Partnerships program is to maximize the use of the limited funding available for risk management education for producers of Priority Commodities. In order to accomplish this goal, RMA needs to ensure that the maximum amount of funds practicable is used for directly providing the educational opportunities. Limiting the amount of funding for salaries and benefits will allow the limited amount of funding to reach the maximum number of farmers and ranchers.

F. Indirect Cost Rates

a. Indirect costs allowed for projects submitted under this announcement will be limited to ten (10) percent of the total direct cost of the cooperative partnership agreement. Therefore, when preparing budgets, applicants should limit their requests for recovery of indirect costs to the lesser of their institution's official negotiated indirect cost rate or 10 percent of the total direct costs.

b. RMA will withhold all indirect cost rate funds for an award to an applicant requesting indirect costs if the applicant has not negotiated an indirect cost rate with its cognizant Federal agency.

c. If an applicant is in the process of negotiating an indirect cost rate with its cognizant Federal agency, RMA will withhold all indirect cost rate funds from that applicant until the indirect cost rate has been established.

d. If an applicant's indirect cost rate has expired or will expire prior to award announcements, a clear statement on renegotiation efforts must be included in the application.

e. It is incumbent on all applicants to have a current indirect cost rate or begin negotiations to establish an indirect cost rate prior to the submission deadline. Because it may take several months to obtain an indirect cost rate, applicants needing an indirect cost rate are encouraged to start work on establishing these rates well in advance of submitting an application. The U.S. Office of Management and Budget (OMB) is responsible for assigning cognizant Federal agencies.

f. Applicants may be asked to provide a copy of their indirect cost rate negotiated with their cognizant agency.

g. RMA reserves the right to negotiate final budgets with successful applicants.

G. Other Submission Requirements

Mailed submissions: Applications submitted through express, overnight mail or another delivery service will be considered as meeting the announced deadline if they are received in the mailroom at the address stated below for express, overnight mail or another delivery service on or before the deadline. Applicants are cautioned that express, overnight mail or other delivery services do not always deliver as agreed. Applicants should take this into account because failure of such delivery services will not extend the deadline. Mailed applications will be considered as meeting the announced deadline if they are received on or before the deadline in the mailroom at the address stated below for mailed applications. Applicants are responsible for mailing applications well in advance, to ensure that applications are received on or before the deadline time and date. Applicants using the U.S. Postal Services should allow for the extra security handling time for delivery due to the additional security measures that mail delivered to government offices in the Washington, DC area requires.

Address when using private delivery services or when hand delivering: Attention: Risk Management Education Program, USDA/RMA/RME, Room 5720, South Building, 1400 Independence Avenue, SW., Washington, DC 20250.

Address when using U.S. Postal Services: Attention: Risk Management Education Program, USDA/RMA/RME/Stop 0808, Room 5720, South Building, 1400 Independence Avenue, SW., Washington, DC 20250–0808.

H. Electronic Submissions

Applications transmitted electronically via Grants.gov will be accepted prior to the application date or time deadline. The application package can be accessed via Grants.gov, go to *http://www.grants.gov*, click on "Find Grant Opportunities," click on "Search Grant Opportunities," and enter the CFDA number (located at the beginning of this RFA) to search by CFDA number. From the search results, select the item that correlates to the title of this RFA. If you do not have electronic access to the RFA or have trouble downloading material and you would like a hardcopy, you may contact Lon Burke, USDA–RMA–RME, phone: (202) 720–5265, fax: (202) 690–3605, e-mail: *RMA.Risk-Ed@rma.usda.gov*.

If assistance is needed to access the application package via Grants.gov (*e.g.*, downloading or navigating PureEdge forms, using PureEdge with a Macintosh computer), refer to resources available on the Grants.gov Web site first (*http://www.grants.gov/*). Grants.gov assistance is also available as follows:

- Grants.gov customer support

Toll Free: 1–800–518–4726.

Business Hours: M-F 7:00 a.m.–9 p.m. Eastern Standard Time.

E-mail: support@grants.gov.

Applicants who submit their applications via the Grants.gov Web site are not required to submit any hard copy documents to RMA.

When using Grants.gov to apply, RMA strongly recommends that you submit the online application at least two weeks prior to the application due date in case there are problems with the Grants.gov Web site and you want to submit your application via a mail delivery service.

I. Acknowledgement of Applications

Receipt of applications will be acknowledged by e-mail, whenever possible. Therefore, applicants are encouraged to provide e-mail addresses in their applications. If an e-mail address is not indicated on an application, receipt will be acknowledged by letter. There will be no notification of incomplete, unqualified or unfunded applications until the awards have been made. When received by RMA, applications will be assigned an identification number. This number will be communicated to applicants in the acknowledgement of receipt of applications. An application's identification number should be referenced in all correspondence regarding the application. If the applicant does not receive an acknowledgement within 15 days of the submission deadline, the applicant should notify RMA's point of contact indicated in Section VII, Agency Contact.

V. Application Review Process

A. Criteria

Applications submitted under the Commodity Partnerships Program will be evaluated within each RMA Region according to the following criteria:

Priority—Maximum 10 Points

The applicant can submit projects that are not related to Priority Commodities. However, priority is given to projects relating to Priority Commodities and the degree in which such projects relate to the Priority Commodities. Projects that relate solely to Priority Commodities will be eligible for the most points.

Project Benefits—Maximum 35 Points

The applicant must demonstrate that the project benefits to farmers and ranchers warrant the funding requested. Applicants will be scored according to the extent they can: (a) Reasonably estimate the total number of producers reached through the various educational activities described in the Statement of Work; (b) justify such estimates with clear specifics; (c) identify the actions producers will likely be able to take as a result of the activities described in the Statement of Work; and (d) identify the specific measures for evaluating results that will be employed in the project. Reviewers' scoring will be based on the scope and reasonableness of the applicant's estimates of producers reached through the project, clear descriptions of specific expected project benefits, and well-designed methods for measuring the project's results and effectiveness.

Statement of Work—Maximum 15 Points

The applicant must produce a clear and specific Statement of Work for the project. For each of the tasks contained in the Description of Agreement Award (refer to Section II Award Information), the applicant must identify and describe specific subtasks, responsible entities, expected completion dates, RMA substantial involvement, and deliverables that will further the purpose of this program. Applicants will obtain a higher score to the extent that the Statement of Work is specific, measurable, reasonable, has specific deadlines for the completion of subtasks, relates directly to the required activities and the program purpose described in this announcement, which is to provide producers with training and informational opportunities so that the producers will be better able to use financial management, crop insurance, marketing contracts, and other existing and emerging risk management tools. Applicants are required to submit this Statement of Work on Form RME–2.

Partnering—Maximum 15 Points

The applicant must demonstrate experience and capacity to partner with and gain the support of grower organizations, agribusiness professionals, and agricultural leaders to carry out a local program of education and information in a designated RMA Region. The applicant is required to establish a written partnering plan that includes how each partner will aid in carrying out the project goal and purpose stated in this announcement and letters of support stating that the partner has agreed to do this work. The applicant must ensure this plan includes a list of all partners working on the project, their titles, and how they will be contributing to the deliverables listed in the agreement. Applicants will receive higher scores to the extent that they can document and demonstrate: (a) That partnership commitments are in place for the express purpose of delivering the program in this announcement; (b) that a broad group of farmers and ranchers will be reached within the RMA Region; (c) that partners are contributing to the project and involved in recruiting producers to attend the training; (d) that a substantial effort has been made to partner with organizations that can meet the needs of producers; and (e) statements from each partner regarding the number of producers that partner is committed to recruit for the project that would support the estimates specified under the Project Benefits criterion.

Project Management—Maximum 15 Points

The applicant must demonstrate an ability to implement sound and effective project management practices. Higher scores will be awarded to applicants that can demonstrate organizational skills, leadership, and experience in delivering services or programs that assist agricultural producers in the respective RMA Region. The project manager must demonstrate that he/she has the capability to accomplish the project goal and purpose stated in this announcement by a) Having a previous working relationship with the farm community in the designated RMA Region of the application, including being able to recruit approximately the number of producers to be reached in the application and/or b) having established the capacity to partner with and gain the support of grower organizations, agribusiness professionals, and agribusiness leaders locally to aid in carrying out a program of education and information, including being able to recruit approximately the number of producers to be reached in this application. Applicants that will employ, or have access to, personnel who have experience in directing local educational programs that benefit agricultural producers in the respective RMA Region will receive higher rankings.

Past Performance—Maximum 10 Points

If the applicant has been an awardee of other Federal or other government grants, cooperative agreements, or contracts, the applicant must provide information relating to their past performance in reporting on outputs and outcomes under past or current federal assistance agreements. The applicant must also detail that they have consistently complied with financial and program reporting and auditing requirements. RMA reserves the right to add up to 10 points to applications due to past performance. Applicants with very good past performance will receive a score from 6–10 points. Applicants with acceptable past performance will receive a score from 1–5 points. Applicants with unacceptable past performance will receive a score of minus 5 points for this evaluation factor. Applicants without relevant past performance information will receive a neutral score of the mean number of points of all applicants with past performance. Under this cooperative partnership agreement, RMA will subjectively rate the awardee on project performance as indicated in Section II, G.

The applicant must list all current public or private support to which personnel identified in the application have committed portions of their time, whether or not salary support for persons involved is included in the budget. An application that duplicates or overlaps substantially with an application already reviewed and funded (or to be funded) by another organization or agency will not be funded under this program. The projects proposed for funding should be included in the pending section.

Budget Appropriateness and Efficiency—Maximum 15 Points

Applicants must provide a detailed budget summary that clearly explains and justifies costs associated with the project. Applicants will receive higher scores to the extent that they can demonstrate a fair and reasonable use of funds appropriate for the project and a budget that contains the estimated cost of reaching each individual producer. The applicant must provide information factors such as:

- The allowability and necessity for individual cost categories;
- The reasonableness of amounts estimated for necessary costs;
- The basis used for allocating indirect or overhead costs;
- The appropriateness of allocating particular overhead costs to the proposed project as direct costs; and
- The percent of time devoted to the project for all key project personnel identified in the application. Salaries of project personnel should be requested in proportion to the percent of time that they would devote to the project—Note: cannot exceed 60% of the total project

budget. Applicants must list all current public or private support to which personnel identified in the application have committed portions of their time, whether or not salary support for persons involved is included in the budget. Only items or services that are necessary for the successful completion of the project will be funded as permitted under the Act.

B. Review and Selection Process

Applications will be evaluated using a two-part process. First, each application will be screened by RMA personnel to ensure that it meets the requirements in this announcement. Applications that do not meet the requirements of this announcement or are incomplete will not receive further consideration during the next process. Applications that meet announcement requirements will be sorted into the RMA Region in which the applicant proposes to conduct the project and then sorted by project objective listed in Section I (F). These applications will be presented to a review panel for consideration.

Second, the review panel will meet to consider and discuss the merits of each application. The panel will consist of not less than two independent reviewers. Reviewers will be drawn from USDA, other Federal agencies, and others representing public and private organizations, as needed. After considering the merits of all applications within an RMA Region, panel members will score each application according to the criteria and point values listed above. The panel will then rank each application against others within the RMA Region by educational objective listed in Section I (F) according to the scores received. Those applications will be listed in initial rank order by objective within each RMA Region. The highest-ranking application for each objective will be funded in the order of priority (the highest-ranking application meeting objective 2 will be funded third, etc.) in each RMA Region.

Note: Two projects will be funded in objective 1 in each RMA Region. In the event that there no applications that warrant funding in objectives 1–4 or if there are funds remaining, the process will be repeated until the funds are obligated.

A lottery will be used to resolve any instances of a tie score that might have a bearing on funding recommendations. If such a lottery is required, the names of all tied applicants will be entered into a drawing. The first tied applicant drawn will have priority over other tied applicants for funding consideration.

The review panel will report the results of the evaluation to the Manager of FCIC. The panel's report will include the recommended applicants to receive partnership agreements for each RMA Region. Funding will not be provided for an application receiving a score less than 60. Funding will not be provided for an application that is highly similar to a higher-scoring application in the same RMA Region. Highly similar is one that proposes to reach the same producers likely to be reached by another applicant that scored higher by the panel and the same general educational material is proposed to be delivered.

An organization, or group of organizations in partnership, may apply for funding under other FCIC or RMA programs, in addition to the program described in this announcement. However, if the Manager of FCIC determines that an application recommended for funding is sufficiently similar to a project that has been funded or has been recommended to be funded under another RMA or FCIC program, then the Manager may elect to not fund that application in whole or in part. The Manager of FCIC will make the final determination on those applications that will be awarded funding.

VI. Award Administration Information

A. Award Notices

Following approval by the awarding official of RMA of the applications to be selected for funding, project leaders whose applications have been selected for funding will be notified. Within the limit of funds available for such a purpose, the awarding official of RMA shall enter into cooperative partnership agreements with those selected applicants. The agreements provide the amount of Federal funds for use in the project period, the terms and conditions of the award, and the time period for the project. The effective date of the agreement shall be on the date the agreement is executed by both parties and it shall remain in effect for up to one year or through September 30, 2008, whichever is later.

After a cooperative partnership agreement has been signed, RMA will extend to awardees, in writing, the authority to draw down funds for the purpose of conducting the activities listed in the agreement. All funds provided to the awardee by FCIC must be expended solely for the purpose for which the funds are obligated in accordance with the approved agreement and budget, the regulations, the terms and conditions of the award, and the applicability of Federal cost principles. No commitment of Federal assistance beyond the project period is made or implied for any award resulting from this notice.

Notification of denial of funding will be sent to applicants after final funding decisions have been made and the awardees announced publicly. Reasons for denial of funding can include, but are not limited to, incomplete applications, applications with evaluation scores that are lower than other applications in an RMA Region, or applications that propose to deliver education to groups of producers in an RMA Region that are largely similar to groups reached in a higher ranked application.

B. Administrative and National Policy Requirements

1. Requirement To Use Program Logo

Awardees will be required to use a program logo and design provided by RMA for all instructional and promotional materials.

2. Requirement To Provide Project Information to an RMA-Selected Representative

Awardees will be required to assist RMA in evaluating the effectiveness of its educational programs by providing documentation of educational activities and related information to any representative selected by RMA for program evaluation purposes.

3. Private Crop Insurance Organizations and Potential Conflicts of Interest

Private organizations that are involved in the sale of Federal crop insurance, or that have financial ties to such organizations, are eligible to apply for funding under this announcement. However, such entities will not be allowed to receive funding to conduct activities that would otherwise be required under a Standard Reinsurance Agreement or any other agreement in effect between FCIC and the entity. Also, such entities will not be allowed to receive funding to conduct activities that could be perceived by producers as promoting one company's services or products over another's. If applying for funding, such organizations are encouraged to be sensitive to potential conflicts of interest and to describe in their application the specific actions they will take to avoid actual and perceived conflicts of interest.

4. Access to Panel Review Information

Upon written request from the applicant, scores from the evaluation panel, not including the identity of reviewers, will be sent to the applicant

after the review and awards process has been completed.

5. Confidential Aspects of Applications and Awards

The names of applicants, the names of individuals identified in the applications, the content of applications, and the panel evaluations of applications will all be kept confidential, except to those involved in the review process, to the extent permitted by law. In addition, the identities of review panel members will remain confidential throughout the entire review process and will not be released to applicants. At the end of the fiscal year, names of panel members will be made available. However, panelists will not be identified with the review of any particular application. When an application results in a partnership agreement, that agreement becomes a part of the official record of RMA transactions, available to the public upon specific request. Information that the Secretary of Agriculture determines to be of a confidential, privileged, or proprietary nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to be considered confidential, privileged, or proprietary should be clearly marked within an application, including the basis for such designation. The original copy of an application that does not result in an award will be retained by RMA for a period of one year. Other copies will be destroyed. Copies of applications not receiving awards will be released only with the express written consent of the applicant or to the extent required by law. An application may be withdrawn at any time prior to award.

6. Audit Requirements

Awardees are subject to audit.

7. Prohibitions and Requirements Regarding Lobbying

Section 1352 of Public Law 101–121, enacted on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on awardees of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian Tribes and tribal organizations. Current and prospective awardees and any subcontractors, are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement, or loan. In addition, for each award action in excess of $100,000 ($150,000 for loans) the law requires awardees and any subcontractors: (1) To certify that they have neither used nor will use any appropriated funds for payment of lobbyists; (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom awardees of their subcontractors will pay with profits or other non-appropriated funds on or after December 22, 1989; and (3) to file quarterly updates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for non-compliance. A copy of the certification and disclosure forms must be submitted with the application and are available at the address and telephone number listed in Section VII. Agency Contact.

8. Applicable OMB Circulars

All cooperative partnership agreements funded as a result of this notice will be subject to the requirements contained in all applicable OMB circulars.

9. Requirement To Assure Compliance With Federal Civil Rights Laws

Project leaders of all cooperative partnership agreements funded as a result of this notice are required to know and abide by Federal civil rights laws and to assure USDA and RMA that the awardee is in compliance with and will continue to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), 7 CFR Part 15, and USDA regulations promulgated thereunder, 7 CFR 1901.202. RMA requires that awardees submit an Assurance Agreement (Civil Rights), assuring RMA of this compliance prior to the beginning of the project period.

10. Requirement To Participate in a Post Award Conference

RMA requires that project leaders attend a post award conference to become fully aware of agreement requirements and for delineating the roles of RMA personnel and the procedures that will be followed in administering the agreement and will afford an opportunity for the orderly transition of agreement duties and obligations if different personnel are to assume post-award responsibility. In their applications, applicants should budget for possible travel costs associated with attending this conference.

11. Requirement To Submit Educational Materials to the National AgRisk Education Library

RMA requires that project leaders upload digital copies of all risk management educational materials developed because of the project to the National AgRisk Education Library (*http://www.agrisk.umn.edu/*) for posting. RMA will be clearly identified as having provided funding for the materials.

C. Reporting Requirements

Awardees will be required to submit quarterly progress reports, quarterly financial reports (OMB Standard Form 269), and quarterly Activity Logs (Form RME–3) throughout the project period, as well as a final program and financial report not later than 90 days after the end of the project period.

Awardees will be required to submit prior to the award:

- A completed and signed Form RD 400–4, Assurance Agreement (Civil Rights).
- A completed and signed OMB Standard Form LLL, "Disclosure of Lobbying Activities."
- A completed and signed AD–1047, "Certification Regarding Debarment, Suspension and Other Responsibility Matters—Primary Covered Transactions."
- A completed and signed AD–1049, "Certification Regarding Drug-Free Workplace."
- A completed and signed Faith-Based Survey on EEO.

VII. Agency Contact

For Further Information Contact: Applicants and other interested parties are encouraged to contact: Lon Burke, USDA–RMA–RME, 1400 Independence Ave., SW., Stop 0808, Room 5720, Washington, DC 20250–0808, phone: 202–720–5265, fax: 202–690–3605, e-mail: *RMA.Risk-Ed@rma.usda.gov*. You may also obtain information regarding this announcement from the RMA Web site at: *http://www.rma.usda.gov/aboutrma/agreements*.

VIII. Additional Information

A. Dun and Bradstreet Data Universal Numbering System (DUNS)

A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of over 70 million businesses worldwide. The Office of Management and Budget published a notice of final policy issuance in the **Federal Register** June 27, 2003 (68 FR 38402) that requires a DUNS number in every application (*i.e.*, hard copy and electronic) for a grant or cooperative agreement on or after October 1, 2003. Therefore, potential applicants should verify that they have a DUNS number or take the steps needed to obtain one. For

information about how to obtain a DUNS number, go to *http://www.grants.gov*. Please note that the registration may take up to 14 business days to complete.

B. Required Registration With the Central Contract Registry for Submission of Proposals

The Central Contract Registry (CCR) is a database that serves as the primary Government repository for contractor information required for the conduct of business with the Government. This database will also be used as a central location for maintaining organizational information for organizations seeking and receiving grants from the Government. Such organizations must register in the CCR prior to the submission of applications. A DUNS number is needed for CCR registration. For information about how to register in the CCR, visit "Get Started" at the Web site, *http://www.grants.gov*. Allow a minimum of 5 business days to complete the CCR registration.

C. Related Programs

Funding availability for this program may be announced at approximately the same time as funding availability for similar but separate programs—CFDA No. 10.455 (Community Outreach and Assistance Partnerships), CFDA No. 10.456 (Risk Management Research Partnerships), CFDA No. 10.458 (Crop Insurance Education in Targeted States), and CFDA No. 10.459 (Commodity Partnerships Small Sessions Program). These programs have some similarities, but also key differences. The differences stem from important features of each program's authorizing legislation and different RMA objectives. Prospective applicants should carefully examine and compare the notices for each program.

Signed in Washington, DC, on March 8, 2007.

Eldon Gould,

Manager, Federal Crop Insurance Corporation.

[FR Doc. E7–4592 Filed 3–13–07; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Announcement of Availability of Funds and Request for Application for Competitive Cooperative Partnership Agreements—Correction

Funding Opportunity Title: Commodity Partnerships for Small Agricultural Risk Management Education Sessions (Commodity Partnerships Small Sessions Program).

Catalog of Federal Domestic Assistance Number (CFDA): 10.459.

Dates: Applications are due 5 p.m. EDT, April 23, 2007.

Summary: Due to an error in the Application Deadline (Section IV—Application and Submission Information, C. Submission Dates and Times), the following notice supersedes the original Request for Applications, published on March 7, 2007 for Commodity Partnerships Small Sessions Program at 72 FR 10121–10128.

The Federal Crop Insurance Corporation (FCIC), operating through the Risk Management Agency (RMA), announces the availability of approximately $500,000 for Commodity Partnerships for Small Agricultural Risk Management Education Sessions (the Commodity Partnerships Small Sessions Program). The purpose of this cooperative partnership agreement program is to deliver training and information in the management of production, marketing, and financial risk to U.S. agricultural producers. The program gives priority to educating producers of crops currently not insured under Federal crop insurance, specialty crops, and underserved commodities, including livestock and forage. A maximum of 50 cooperative partnership agreements will be funded, with no more than five in each of the ten designated RMA Regions. The maximum award for any cooperative partnership agreement will be $10,000. Awardees must demonstrate non-financial benefits from a cooperative partnership agreement and must agree to the substantial involvement of RMA in the project. Funding availability for this program may be announced at approximately the same time as funding availability for similar but separate programs—CFDA No. 10.455 (Community Outreach and Assistance Partnerships), CFDA No. 10.456 (Risk Management Research Partnerships), CFDA No. 10.457 (Commodity Partnerships for Risk Management Education), and CFDA No. 10.458 (Crop Insurance Education in Targeted States). Prospective applicants should carefully examine and compare the notices for each program.

This Announcement Consists of Eight Sections

Full Text of Announcement

I. Funding Opportunity Description

A. Legislative Authority

The Commodity Partnerships Small Sessions Program is authorized under section 522(d)(3)(F) of the Federal Crop Insurance Act (Act) (7 U.S.C.) 1522(d)(3)(F)).

B. Background

RMA promotes and regulates sound risk management solutions to improve the economic stability of American agriculture. On behalf of FCIC, RMA does this by offering Federal crop insurance products through a network of private-sector partners, overseeing the creation of new risk management products, seeking enhancements in existing products, ensuring the integrity of crop insurance programs, offering outreach programs aimed at equal access and participation of underserved communities, and providing risk management education and information.

One of RMA's strategic goals is to ensure that its customers are well informed as to the risk management solutions available. This educational goal is supported by section 522(d)(3)(F) of the Act, which authorizes FCIC funding for risk management training and informational efforts for agricultural producers through the formation of partnerships with public and private organizations. With respect to such partnerships, priority is to be given to reaching producers of Priority Commodities, as defined below.

C. Definition of Priority-Commodities

For purposes of this program, Priority Commodities are defined as:

• Agricultural commodities covered by (7 U.S.C. 7333). Commodities in this group are commercial crops that are not covered by catastrophic risk protection crop insurance, are used for food or fiber (except livestock), and specifically include, but are not limited to, floricultural, ornamental nursery, Christmas trees, turf grass sod, aquaculture (including ornamental fish), and industrial crops.

• *Specialty crops.* Commodities in this group may or may not be covered under a Federal crop insurance plan and include, but are not limited to, fruits, vegetables, tree nuts, syrups, honey, roots, herbs, and highly specialized varieties of traditional crops.

• *Underserved commodities.* This group includes: (a) Commodities, including livestock and forage, that are covered by a Federal crop insurance plan but for which participation in an area is below the national average; and (b) commodities, including livestock and forage, with inadequate crop insurance coverage.

A project is considered as giving priority to Priority Commodities if the majority of the educational activities of the project are directed to producers of any of the three classes of commodities listed above or any combination of the three classes.

D. Project Goal

The goal of this program is to ensure that "producers will be better able to use financial management, crop insurance, marketing contracts, and other existing and emerging risk management tools".

E. Purpose

The purpose of the Commodity Partnership Small Session Program is to provide U.S. farmers and ranchers with training and informational opportunities to be able to understand:

• The kinds of risks addressed by existing and emerging risk management tools;

• The features and appropriate use of existing and emerging risk management tools; and

• How to make sound risk management decisions.

II. Award Information

A. Type of Award

Cooperative Partnership Agreements, which require the substantial involvement of RMA.

B. Funding Availability

Approximately $500,000 is available in fiscal year 2007 to fund up to 50 cooperative partnership agreements. The maximum award for any agreement will be $10,000. It is anticipated that a maximum of five agreements will be funded in each of the ten designated RMA Regions.

In the event that all funds available for this program are not obligated after the maximum number of agreements are awarded or if additional funds become available, these funds may, at the discretion of the Manager of FCIC, be used to award additional applications that score highly by the technical review panel or allocated pro-rata to awardees for use in broadening the size or scope of awarded projects if agreed to by the awardee. In the event that the Manager of FCIC determines that available RMA resources cannot support the administrative and substantial involvement requirements of all agreements recommended for funding, the Manager may elect to fund fewer agreements than the available funding might otherwise allow. It is expected that the awards will be made approximately 60 days after the application deadline. All awards will be made and agreements finalized no later than September 30, 2007.

C. Location and Target Audience

RMA Regional Offices and the States serviced within each Region are listed below. Staff from the respective RMA Regional Offices will provide substantial involvement for projects conducted within the Region:

Billings, MT Regional Office: (MT, ND, SD, and WY)
Davis, CA Regional Office: (AZ, CA, HI, NV, and UT)
Jackson, MS Regional Office: (AR, KY, LA, MS, and TN)
Oklahoma City, OK Regional Office: (NM, OK, and TX)
Raleigh, NC Regional Office: (CT, DE, MA, MD, ME, NC, NH, NJ, NY, PA, RI, VA, VT, and WV)
Spokane, WA Regional Office: (AK, ID, OR, and WA)
Springfield, IL Regional Office: (IL, IN, MI, and OH)
St. Paul, MN Regional Office: (IA, MN, and WI)
Topeka, KS Regional Office: (CO, KS, MO, and NE)
Valdosta, GA Regional Office: (AL, FL, GA, SC, and Puerto Rico)

Applicants must clearly designate in their application narratives the RMA Region where educational activities will be conducted and the specific groups of producers within the region that the applicant intends to reach through the project. Priority will be given to producers of Priority Commodities. Applicants proposing to conduct educational activities in more than one RMA Region must submit a separate application for each RMA Region. Single applications proposing to conduct educational activities in more than one RMA Region will be rejected.

D. Maximum Award

Any application that requests Federal funding of more than $10,000 for a project will be rejected. RMA also reserves the right to fund successful applications at an amount less than requested if it is judged that the application can be implemented at a lower funding level.

E. Project Period

Projects will be funded for a period of up to one year from the project starting date.

F. Description of Agreement Award

Awardee Tasks

In conducting activities to achieve the purpose and goal of this program in a designated RMA Region, the awardee will be responsible for performing the following tasks:

• Develop and conduct a promotional program. This program will include activities using media, newsletters, publications, or other appropriate informational dissemination techniques that are designed to: (a) Raise awareness

for risk management; (b) inform producers of the availability of risk management tools; and (c) inform producers and agribusiness leaders in the designated RMA Region of training and informational opportunities.

• Deliver risk management training and informational opportunities to agricultural producers and agribusiness professionals in the designated RMA Region. This will include organizing and delivering educational activities using the instructional materials that have been assembled to meet the local needs of agricultural producers. Activities should be directed primarily to agricultural producers, but may include those agribusiness professionals that have frequent opportunities to advise producers on risk management tools and decisions.

• Document all educational activities conducted under the cooperative partnership agreement and the results of such activities, including criteria and indicators used to evaluate the success of the program. The awardee will also be required to provide information to an RMA-selected contractor to evaluate all educational activities and advise RMA as to the effectiveness of activities.

G. RMA Activities

FCIC, working through RMA, will be substantially involved during the performance of the funded project through RMA's ten Regional Offices. Potential types of substantial involvement may include, but are not limited to the following activities.

• Assist in the selection of subcontractors and project staff.

• Collaborate with the awardee in assembling, reviewing, and approving risk management materials for producers in the designated RMA Region.

• Collaborate with the awardee in reviewing and approving a promotional program for raising awareness for risk management and for informing producers of training and informational opportunities in the RMA Region.

• Collaborate with the awardee on the delivery of education to producers and agribusiness leaders in the RMA Region. This will include: (a) Reviewing and approving in advance all producer and agribusiness leader educational activities; (b) advising the project leader on technical issues related to crop insurance education and information; and (c) assisting the project leader in informing crop insurance professionals about educational activity plans and scheduled meetings.

• Conduct an evaluation of the performance of the awardee in meeting the deliverables of the project.

Applications that do not contain substantial involvement by RMA will be rejected.

H. Other Tasks

In addition to the specific, required tasks listed above, the applicant may propose additional tasks that would contribute directly to the purpose of this program. For any proposed additional task, the applicant must identify the objective of the task, the specific subtasks required to meet the objective, specific time lines for performing the subtasks, and the specific responsibilities of partners. The applicant must also identify specific ways in which RMA would have substantial involvement in the proposed project task.

III. Eligibility Information

A. Eligible Applicants

Eligible applicants include State departments of agriculture, universities, non-profit agricultural organizations, and other public or private organizations with the capacity to lead a local program of risk management education for farmers and ranchers in an RMA Region. Individuals are not eligible applicants. Although an applicant may be eligible to compete for an award based on its status as an eligible entity, other factors may exclude an applicant from receiving Federal assistance under this program governed by Federal law and regulations (e.g. debarment and suspension; a determination of non-performance on a prior contract, cooperative agreement, grant or cooperative partnership; a determination of a violation of applicable ethical standards; a determination of being considered "high risk"). Applications from ineligible or excluded persons will be rejected in their entirety.

B. Cost Sharing or Matching

Although RMA prefers cost sharing by the applicant, this program has neither a cost sharing nor a matching requirement.

C. Other—Non-Financial Benefits

To be eligible, applicants must also be able to demonstrate that they will receive a non-financial benefit as a result of a cooperative partnership agreement. Non-financial benefits must accrue to the applicant and must include more than the ability to provide employment income to the applicant or for the applicant's employees or the community. The applicant must demonstrate that performance under the cooperative partnership agreement will further the specific mission of the applicant (such as providing research or activities necessary for graduate or other students to complete their educational program). Applications that do not demonstrate a non-financial benefit will be rejected.

IV. Application and Submission Information

A. Contact To Request Application Package

Program application materials for the Commodity Partnerships Program under this announcement may be downloaded from *http://www.rma.usda.gov/aboutrma/agreements.* Applicants may also request application materials from: Lon Burke, USDA–RMA–RME, phone: (202) 720–5265, fax: (202) 690–3605, e-mail: *RMA.Risk-Ed@rma.usda.gov.*

B. Content and Form of Application Submission

A complete and valid application package must include an electronic copy (Microsoft Word format preferred) of the narrative portion (Forms RME 1 and RME–2) of the application package on a compact disc and an original and two copies of the completed and signed application must be submitted in one package at the time of initial submission, which must include the following:

1. A completed and signed OMB Standard Form 424, "Application for Federal Assistance".

2. A completed and signed OMB Standard Form 424–A, "Budget Information—Non-construction Programs". Federal funding requested (the total of direct and indirect costs) must not exceed $10,000.

3. A completed and signed OMB Standard Form 424–B, "Assurances, Non-constructive Programs".

4. Risk Management Education Project Narrative (Form RME–1). Complete all required parts of Form RME–1:

Part I—Title Page

Part II—A written narrative of no more than 5 single-sided pages which will provide reviewers with sufficient information to effectively evaluate the merits of the application according to the evaluation criteria listed in this notice. Although a Statement of Work, which is the third evaluation criterion, is to be completed in detail in RME Form-2, applicants may wish to highlight certain unique features of the Statement of Work in Part II for the benefit of the evaluation panel. If your narrative exceeds the page limit, only the first 2 pages will be reviewed.

• No smaller than 12-point font size.

• Use an easily readable font face (*e.g.*, Arial, Geneva, Helvetica, Times Roman).

- 8.5 by 11 inch paper.
- One-inch margins on each page.
- Printed only on one side of paper.
- Unbound, held together only by rubber bands or metal clips; not bound or stapled in any other way.

Part III—A Budget Narrative, describing how the categorical costs listed on SF 424–A are derived. The budget narrative should provide enough detail for reviewers to easily understand how costs were determined and how they relate to the goals and objectives of the project.

Part IV—Provide a "Statement of Non-financial Benefits". (Refer to Section III, Eligibility Information, above).

5. "Statement of Work", Form RME–2, which identifies tasks and subtasks in detail, expected completion dates and deliverables, and RMA's substantial involvement role for the proposed project.

Applications that do not include items 1–5 above will be considered incomplete and will not receive further consideration and will be rejected.

C. Submission Dates and Times

Applications Deadline: Applications are due 5 p.m. EDT, April 23, 2007.

Applicants are responsible for ensuring that RMA receives a complete application package by the closing date and time. USPS mail sent to Washington D.C. headquarters is sanitized offsite, which may result in delays, loss, and physical damage to enclosures. Regardless of the delivery method you choose, please do so sufficiently in advance of the due date to ensure your application package is received on or before the deadline. It is your responsibility to meet the due date and time. E-mailed and faxed applications will not be accepted. Late application packages will not receive further consideration and will be rejected.

D. Intergovernmental Review

Not applicable.

E. Funding Restrictions

Cooperative partnership agreement funds may not be used to:

a. Plan, repair, rehabilitate, acquire, or construct a building or facility including a processing facility;

b. Purchase, rent, or install fixed equipment;

c. Repair or maintain privately owned vehicles;

d. Pay for the preparation of the cooperative partnership agreement application;

e. Fund political activities;

f. Alcohol, food, beverage or entertainment;

g. Pay costs incurred prior to receiving a cooperative partnership agreement;

h. Fund any activities prohibited in 7 CFR Parts 3015 and 3019, as applicable.

F. Limitation on Use of Project Funds for Salaries and Benefits

Total costs for salary and benefits allowed for projects under this announcement will be limited to not more than 60 percent reimbursement of the funds awarded under the cooperative partnership agreement as indicated in Section III. Eligibility Information, C. Other—Non-financial Benefits. One goal of the Commodity Partnerships Small Sessions Program is to maximize the use of the limited funding available for risk management education for producers of Priority Commodities. In order to accomplish this goal, RMA needs to ensure that the maximum amount of funds practicable is used for directly providing the educational opportunities. Limiting the amount of funding for salaries and benefits will allow the limited amount of funding to reach the maximum number of farmers and ranchers.

G. Indirect Cost Rates

a. Indirect costs allowed for projects submitted under this announcement will be limited to ten (10) percent of the total direct cost of the cooperative partnership agreement. Therefore, when preparing budgets, applicants should limit their requests for recovery of indirect costs to the lesser of their institution's official negotiated indirect cost rate or 10 percent of the total direct costs.

b. RMA will withhold all indirect cost rate funds for an award to an applicant requesting indirect costs if the applicant has not negotiated an indirect cost rate with its cognizant Federal agency.

c. If an applicant is in the process of negotiating an indirect cost rate with its cognizant Federal agency, RMA will withhold all indirect cost rate funds from that applicant until the indirect cost rate has been established.

d. If an applicant's indirect cost rate has expired or will expire prior to award announcements, a clear statement on renegotiation efforts must be included in the application.

e. It is incumbent on all applicants to have a current indirect cost rate or begin negotiations to establish an indirect cost rate prior to the submission deadline. Because it may take several months to obtain an indirect cost rate, applicants needing an indirect cost rate are encouraged to start work on establishing these rates well in advance of submitting an application. The U.S. Office of Management and Budget (OMB) is responsible for assigning cognizant Federal agencies.

f. Applicants may be asked to provide a copy of their indirect cost rate negotiated with their cognizant agency.

g. RMA reserves the right to negotiate final budgets with successful applicants.

H. Other Submission Requirements

Mailed submissions: Applications submitted through express, overnight mail or another delivery service will be considered as meeting the announced deadline if they are received in the mailroom at the address stated below for express, overnight mail or another delivery service on or before the deadline. Applicants are cautioned that express, overnight mail or other delivery services do not always deliver as agreed. Applicants should take this into account because failure of such delivery services will not extend the deadline. Mailed applications will be considered as meeting the announced deadline if they are received on or before the deadline in the mailroom at the address stated below for mailed applications. Applicants are responsible for mailing applications well in advance, to ensure that applications are received on or before the deadline time and date. Applicants using the U.S. Postal Services should allow for the extra security handling time for delivery due to the additional security measures that mail delivered to government offices in the Washington DC area requires.

Address when using private delivery services or when hand delivering: Attention: Risk Management Education Program, USDA/RMA/RME, Room 5720, South Building, 1400 Independence Avenue, SW., Washington, DC 20250.

Address when using U.S. Postal Services: Attention: Risk Management Education Program, USDA/RMA/RME/Stop 0808, Room 5720, South Building, 1400 Independence Ave., SW., Washington, DC 20250–0808.

I. Electronic Submissions

Applications transmitted electronically via Grants.gov will be accepted prior to the application date or time deadline. The application package can be accessed via Grants.gov, go to *http://www.grants.gov*, click on "Find Grant Opportunities", click on "Search Grant Opportunities," and enter the CFDA number (beginning of the RFA) to search by CFDA number. From the search results, select the item that correlates to the title of this RFA. If you do not have electronic access to the RFA or have trouble downloading material and you would like a hardcopy, you may contact Lon Burke, USDA–RMA–

RME, phone: (202) 720–5265, fax: (202) 690–3605, *e-mail: RMA.Risk-Ed@rma.usda.gov.*

If assistance is needed to access the application package via Grants.gov (e.g., downloading or navigating PureEdge forms, using PureEdge with a Macintosh computer), refer to resources available on the Grants.gov Web site first (*http://www.grants.gov/*). Grants.gov assistance is also available as follows:

- Grants.gov customer support.

Toll Free: 1–800–518–4726.

Business Hours: M–F 7:00 a.m.—9 p.m. Eastern Standard Time.

E-mail: support@grants.gov.

Applicants who submit their applications via the Grants.gov Web site are not required to submit any hard copy documents to RMA.

When using Grants.gov to apply, RMA strongly recommends that you submit the online application at least two weeks prior to the application due date in case there are problems with the Grants.gov Web site and you want to submit your application via a mail delivery service.

J. Acknowledgement of Applications

Receipt of applications will be acknowledged by e-mail, whenever possible. Therefore, applicants are encouraged to provide e-mail addresses in their applications. If an e-mail address is not indicated on an application, receipt will be acknowledged by letter. There will be no notification of incomplete, unqualified or unfunded applications until after the awards have been made. When received by RMA, applications will be assigned an identification number. This number will be communicated to applicants in the acknowledgement of receipt of applications. An application's identification number should be referenced in all correspondence regarding the application. If the applicant does not receive an acknowledgement within 15 days of the submission deadline, the applicant should notify RMA's point of contact indicated in Section VII, Agency Contact.

V. Application Review Process

A. Criteria

Applications submitted under the Commodity Partnerships Small Sessions Program will be evaluated within each RMA Region according to the following criteria:

Priority—Maximum 10 Points

The applicant can submit projects that are not related to Priority Commodities. However, priority will be given to projects relating to Priority Commodities and the degree in which such projects relate to the Priority Commodities. Projects that relate solely to Priority Commodities will be eligible for the most points.

Project Benefits—Maximum 25 Points

The applicant must demonstrate that the project benefits to farmers and ranchers warrant the funding requested. Applicants will be scored according to the extent they can: (a) Reasonably estimate the number of producers reached through the various educational activities described in the Statement of Work; (b) justify such estimates with clear specifics; (c) identify the actions producers will likely be able to take as a result of the activities described in the Statement of Work; and (d) identify the specific measures for evaluating results that will be employed in the project. Reviewers' scoring will be based on the scope and reasonableness of the applicant's estimates of producers reached through the project, clear descriptions of specific expected project benefits, and well-designed methods for measuring the project's results and effectiveness.

Statement of Work—Maximum 15 Points

The applicant must produce a clear and specific Statement of Work for the project. For each of the tasks contained in the Description of Agreement Award (refer to Section II Award Information), the applicant must identify and describe specific subtasks, responsible entities, expected completion dates, RMA substantial involvement, and deliverables that will further the purpose of this program. Applicants will obtain a higher score to the extent that the Statement of Work is specific, measurable, reasonable, has specific deadlines for the completion of subtasks, relates directly to the required activities and the program purpose described in this announcement, which is to provide producers with training and informational opportunities so that the producers will be better able to use financial management, crop insurance, marketing contracts, and other existing and emerging risk management tools. Applicants are required to submit this Statement of Work on Form RME–2.

Project Management—Maximum 15 Points

The applicant must demonstrate an ability to implement sound and effective project management practices. Higher scores will be awarded to applicants that can demonstrate organizational skills, leadership, and experience in delivering services or programs that assist agricultural producers in the respective RMA Region. The project manager must demonstrate that he/she has the capability to accomplish the project goal and purpose stated in this announcement by (a) having a previous working relationship with the farm community in the designated RMA Region of the application, including being able to recruit approximately the number of producers to be reached in the application and/or (b) having established the capacity to partner with and gain the support of grower organizations, agribusiness professionals, and agribusiness leaders locally to aid in carrying out a program of education and information, including being able to recruit approximately the number of producers to be reached in this application. Applicants that will employ, or have access to, personnel who have experience in directing local educational programs that benefit agricultural producers in the respective RMA Region will receive higher rankings.

Past Performance—Maximum 10 Points

If the applicant has been an awardee of other Federal or other government grants, cooperative agreements, or contracts, the applicant must provide information relating to their past performance in reporting on outputs and outcomes under past or current federal assistance agreements. The applicant must also detail that they have consistently complied with financial and program reporting and auditing requirements. RMA reserves the right to add up to 10 points and subtract 5 points to applications due to past performance. Applicants with very good past performance will receive a score from 6–10 points. Applicants with acceptable past performance will receive a score from 1–5 points. Applicants with unacceptable past performance will receive a score of minus 5 points for this evaluation factor. Applicants without relevant past performance information will receive a neutral score of the mean number of points of all applicants with past performance. Under this cooperative partnership agreement, RMA will subjectively rate the awardee on project performance as indicated in Section II, G. The applicant must list all current public or private support to which personnel identified in the application have committed portions of their time, whether or not salary support for persons involved is included in the budget. An application that duplicates or overlaps substantially with an

application already reviewed and funded (or to be funded) by another organization or agency will not be funded under this program. The projects proposed for funding should be included in the pending section.

Budget Appropriateness and Efficiency—Maximum 15 Points

Applicants must provide a detailed budget summary that clearly explains and justifies costs associated with the project. Applicants will receive higher scores to the extent that they can demonstrate a fair and reasonable use of funds appropriate for the project and a budget that contains the estimated cost of reaching each individual producer. The applicant must provide information factors such as:

- The allowability and necessity for individual cost categories;
- The reasonableness of amounts estimated for necessary costs;
- The basis used for allocating indirect or overhead costs;
- The appropriateness of allocating particular overhead costs to the proposed project as direct costs; and
- The percent of time devoted to the project for all key project personnel identified in the application. Salaries of project personnel should be requested in proportion to the percent of time that they would devote to the project—**Note:** cannot exceed 60% of the total project budget. Applicants must list all current public or private support to which personnel identified in the application have committed portions of their time, whether or not salary support for persons involved is included in the budget. Only items or services that are necessary for the successful completion of the project will be funded as permitted under the Act.

B. Review and Selection Process

Applications will be evaluated using a two-part process. First, each application will be screened by RMA personnel to ensure that it meets the requirements in this announcement. Applications that do not meet the requirements of this announcement or that are incomplete will not receive further consideration during the next process. Applications that meet announcement requirements will be sorted into the RMA Region in which the applicant proposes to conduct the project and will be presented to a review panel for consideration.

Second, the review panel will meet to consider and discuss the merits of each application. The panel will consist of not less than two independent reviewers. Reviewers will be drawn from USDA, other Federal agencies, and others representing public and private organizations, as needed. After considering the merits of all applications within an RMA Region, panel members will score each application according to the criteria and point values listed above. The panel will then rank each application against others within the RMA Region according to the scores received. A lottery will be used to resolve any instances of a tie score that might have a bearing on funding recommendations. If such a lottery is required, the names of all tied applicants will be entered into a drawing. The first tied applicant drawn will have priority over other tied applicants for funding consideration.

The review panel will report the results of the evaluation to the Manager of FCIC. The panel's report will include the recommended applicants to receive cooperative partnership agreements for each RMA Region. Funding will not be provided for an application receiving a score less than 45. Funding will not be provided for an application that is highly similar to a higher-scoring application in the same RMA Region. Highly similar is one that proposes to reach the same producers likely to be reached by another applicant that scored higher by the panel and the same general educational material is proposed to be delivered.

An organization, or group of organizations in partnership, may apply for funding under other FCIC or RMA programs, in addition to the program described in this announcement. However, if the Manager of FCIC determines that an application recommended for funding is sufficiently similar to a project that has been funded or has been recommended to be funded under another RMA or FCIC program, then the Manager may elect to not fund that application in whole or in part. The Manager of FCIC will make the final determination on those applications that will be awarded funding.

VI. Award Administration Information

A. Award Notices

Following approval by the awarding official of RMA of the applications to be selected for funding, project leaders whose applications have been selected for funding will be notified. Within the limit of funds available for such a purpose, the awarding official of RMA shall enter into cooperative partnership agreements with those selected applicants. The agreements provide the amount of Federal funds for use in the project period, the terms, and conditions of the award, and the time period for the project. The effective date of the agreement shall be on the date the agreement is executed by both parties and it shall remain in effect for up to one year or through September 30, 2008, whichever is later.

After a partnership agreement has been signed, RMA will extend to awardees, in writing, the authority to draw down funds for the purpose of conducting the activities listed in the agreement. All funds provided to the applicant by FCIC must be expended solely for the purpose for which the funds are obligated in accordance with the approved agreement and budget, the regulations, the terms and conditions of the award, and the applicability of Federal cost principles. No commitment of Federal assistance beyond the project period is made or implied for any award resulting from this notice.

Notification of denial of funding will be sent to applicants after final funding decisions have been made and the awardees announced publicly. Reasons for denial of funding can include, but are not limited to, incomplete applications, applications with evaluation scores that are lower than other applications in an RMA Region, or applications that are highly similar to a higher-scoring application in the same RMA Region. Highly similar is an application that proposes to reach the same producers likely to be reached by another applicant that scored higher by the panel and the same general educational material is proposed to be delivered.

B. Administrative and National Policy Requirements

1. Requirement To Use Program Logo

Applicants awarded cooperative partnership agreements will be required to use a program logo and design provided by RMA for all instructional and promotional materials.

2. Requirement to Provide Project Information to an RMA-selected Representative

Applicants awarded cooperative partnership agreements may be required to assist RMA in evaluating the effectiveness of its educational programs by providing documentation of educational activities and related information to any contractor selected by RMA for program evaluation purposes.

3. Private Crop Insurance Organizations and Potential Conflicts of Interest

Private organizations that are involved in the sale of Federal crop insurance, or that have financial ties to such organizations, are eligible to apply

for funding under this announcement. However, such entities will not be allowed to receive funding to conduct activities that would otherwise be required under a Standard Reinsurance Agreement or any other agreement in effect between FCIC and the entity. Also, such entities will not be allowed to receive funding to conduct activities that could be perceived by producers as promoting one company's services or products over another's. If applying for funding, such organizations are encouraged to be sensitive to potential conflicts of interest and to describe in their application the specific actions they will take to avoid actual and perceived conflicts of interest.

4. Access to Panel Review Information

Upon written request from the applicant, scores from the evaluation panel, not including the identity of reviewers, will be sent to the applicant after the review and awards process has been completed.

5. Confidential Aspects of Applications and Awards

The names of applicants, the names of individuals identified in the applications, the content of applications, and the panel evaluations of applications will all be kept confidential, except to those involved in the review process, to the extent permitted by law. In addition, the identities of review panel members will remain confidential throughout the entire review process and will not be released to applicants. At the end of the fiscal year, names of panel members will be made available. However, panelists will not be identified with the review of any particular application. When an application results in a partnership agreement, that agreement becomes a part of the official record of RMA transactions, available to the public upon specific request. Information that the Secretary of Agriculture determines to be of a confidential, privileged, or proprietary nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to be considered confidential, privileged, or proprietary should be clearly marked within an application, including the basis for such designation. The original copy of an application that does not result in an award will be retained by RMA for a period of one year. Other copies will be destroyed. Copies of applications not receiving awards will be released only with the express written consent of the applicant or to the extent required by law. An application may be withdrawn at any time prior to award.

6. Audit Requirements

Applicants awarded cooperative partnership agreements are subject to audit.

7. Prohibitions and Requirements Regarding Lobbying

Section 1352 of Public Law 101–121, enacted on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on awardees of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian Tribes and tribal organizations. Current and prospective awardees, and any subcontractors, are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement, or loan. In addition, for each award action in excess of $100,000 ($150,000 for loans) the law requires awardees and any subcontractors: (1) To certify that they have neither used nor will use any appropriated funds for payment of lobbyists; (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom awardees of their subcontractors will pay with profits or other non-appropriated funds on or after December 22, 1989; and (3) to file quarterly up-dates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for non-compliance. A copy of the certification and disclosure forms must be submitted with the application, are available at the address, and telephone number listed in Section VII. Agency Contact.

8. Applicable OMB Circulars

All partnership agreements funded as a result of this notice will be subject to the requirements contained in all applicable OMB circulars.

9. Requirement To Assure Compliance With Federal Civil Rights Laws

Awardees of all cooperative partnership agreements funded as a result of this notice are required to know and abide by Federal civil rights laws and to assure USDA and RMA that the awardee is in compliance with and will continue to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), 7 CFR Part 15, and USDA regulations promulgated thereunder, 7 CFR § 1901.202. RMA requires awardees to submit Form RD 400–4, Assurance Agreement (Civil Rights), assuring RMA of this compliance prior to the beginning of the project period.

10. Requirement To Participate in a Post Award Teleconference

RMA requires that project leaders participate in a post award teleconference to become fully aware of agreement requirements and for delineating the roles of RMA personnel and the procedures that will be followed in administering the agreement and will afford an opportunity for the orderly transition of agreement duties and obligations if different personnel are to assume post-award responsibility.

11. Requirement To Submit Educational Materials to the National AgRisk Education Library

RMA requires that project leaders upload digital copies of all risk management educational materials developed because of the project to the National AgRisk Education Library (*http://www.agrisk.umn.edu/*) for posting. RMA will be clearly identified as having provided funding for the materials.

C. Reporting Requirements

Awardees will be required to submit quarterly progress reports, quarterly financial reports (OMB Standard Form 269), and quarterly Activity Logs (Form RME–3) throughout the project period, as well as a final program and financial report not later than 90 days after the end of the project period.

Awardees will be required to submit prior to the award:

- A completed and signed Form RD 400–4, Assurance Agreement (Civil Rights).
- A completed and signed OMB Standard Form LLL, "Disclosure of Lobbying Activities".
- A completed and signed AD–1047, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions."
- A completed and signed AD–1049, "Certification Regarding Drug-Free Workplace".
- A completed and signed Faith-Based Survey on EEO.

VII. Agency Contact

For Further Information Contact: Applicants and other interested parties are encouraged to contact: Lon Burke, USDA–RMA–RME, 1400 Independence Ave., SW., Stop 0808, Washington, DC 20250–0808, *phone:* 202–720–5265, *fax:* 202–690–3605, *e-mail: RMA.Risk-Ed@rma.usda.gov*. You may also obtain information regarding this announcement from the RMA Web site

at: *http://www.rma.usda.gov/aboutrma/agreements.*

VIII. Additional Information

A. Dun and Bradstreet Data Universal Numbering System (DUNS)

A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of over 70 million businesses worldwide. The Office of Management and Budget published a notice of final policy issuance in the **Federal Register** June 27, 2003 (68 FR 38402) that requires a DUNS number in every application (i.e., hard copy and electronic) for a grant or cooperative agreement on or after October 1, 2003. Therefore, potential applicants should verify that they have a DUNS number or take the steps needed to obtain one. For information about how to obtain a DUNS number, go to *http://www.grants.gov.* Please note that the registration may take up to 14 business days to complete.

B. Required Registration With the Central Contract Registry for Submission of Proposals

The Central Contract Registry (CCR) is a database that serves as the primary Government repository for contractor information required for the conduct of business with the Government. This database will also be used as a central location for maintaining organizational information for organizations seeking and receiving grants from the Government. Such organizations must register in the CCR prior to the submission of applications. A DUNS number is needed for CCR registration. For information about how to register in the CCR, visit "Get Started" at the Web site, *http://www.grants.gov.* Allow a minimum of 5 business days to complete the CCR registration.

C. Related Programs

Funding availability for this program may be announced at approximately the same time as funding availability for similar but separate programs—CFDA No. 10.455 (Community Outreach and Assistance Partnerships), CFDA No. 10.456 (Risk Management Research Partnerships), CFDA No. 10.457 (Commodity Partnerships for Risk Management Education), and CFDA No. 10.458 (Crop Insurance Education in Targeted States). These programs have some similarities, but also key differences. The differences stem from important features of each program's authorizing legislation and different RMA objectives. Prospective applicants should carefully examine and compare the notices for each program.

Signed in Washington, DC, on March 8, 2007.

Eldon Gould,

Manager, Federal Crop Insurance Corporation.

[FR Doc. E7–4593 Filed 3–13–07; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Announcement of Availability of Funds and Request for Application for Competitive Cooperative Agreements—Correction

Funding Opportunity Title: Crop Insurance Education in Targeted States (Targeted States Program).

Catalog of Federal Domestic Assistance Number (CFDA): 10.458.

Dates: Applications are due 5 p.m. EDT, April 23, 2007.

Summary: Due to an error in the Application Deadline (Section IV—Application and Submission Information, C. Submission Dates and Times), the following notice supersedes the original Request for Applications, published on March 7, 2007 for Crop Insurance Education in Targeted States (Targeted States Program) at 72 FR 10128–10135.

The Federal Crop Insurance Corporation (FCIC), operating through the Risk Management Agency (RMA), announces the availability of approximately $4.5 million to fund cooperative agreements under the Crop Insurance Education in Targeted States program (the Targeted States Program). The purpose of this cooperative agreement program is to deliver crop insurance education and information to U.S. agricultural producers in certain States that have been designated as historically underserved with respect to crop insurance. The states, collectively referred to as Targeted States, are Connecticut, Delaware, Maine, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, and Wyoming. A maximum of 15 cooperative agreements will be funded, one in each of the 15 Targeted States. Awardees of awards must agree to the substantial involvement of RMA in the project. Funding availability for this program may be announced at approximately the same time as funding availability for similar but separate programs—CFDA No. 10.455 (Community Outreach and Assistance Partnerships), CFDA No. 10.456 (Risk Management Research Partnerships) CFDA No. 10.457 (Commodity Partnerships for Risk Management Education), and CFDA No. 10.459 (Commodity Partnerships for Small Agricultural Risk Management Education Sessions). Prospective applicants should carefully examine and compare the notices for each program.

This Announcement Consists of Eight Sections

Full Text of Announcement

I. Funding Opportunity Description

A. Legislative Authority

The Targeted States Program is authorized under section 524(a)(2) of the Federal Crop Insurance Act (Act).

B. Background

RMA promotes and regulates sound risk management solutions to improve the economic stability of American agriculture. On behalf of FCIC, RMA does this by offering Federal crop insurance products through a network of private-sector partners, overseeing the creation of new risk management products, seeking enhancements in existing products, ensuring the integrity of crop insurance programs, offering outreach programs aimed at equal access and participation of underserved communities, and providing risk management education and information. One of RMA's strategic goals is to ensure that its customers are well informed as to the risk management solutions available. This educational goal is supported by section 524(a)(2) of the Act. This section authorizes funding for the establishment of crop insurance education and information programs in States that have historically been underserved by the Federal crop insurance program. In accordance with the Act, the fifteen States designated as "underserved" are Connecticut, Delaware, Maine, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, and Wyoming (collectively referred to as "Targeted States").

C. Project Goal

The goal of the Targeted States Program is to ensure that farmers and ranchers in the Targeted States are sufficiently informed so as to take full advantage of existing and emerging crop insurance products.

D. Purpose

The purpose of the Targeted States Program is to provide farmers and ranchers in Targeted States with education and information to be able to understand:

- The kinds of risk addressed by crop insurance;
- The features of existing and emerging crop insurance products;
- The use of crop insurance in the management of risk;
- How the use of crop insurance can affect other risk management decisions, such as the use of marketing and financial tools;
- How to make informed decisions on crop insurance prior to the sales closing date deadline; and
- Recordkeeping requirements for crop insurance.

In addition, for 2007, the FCIC Board of Directors and the FCIC Manager are seeking projects that also include the topics listed below which highlight the educational priorities within each of the twelve Northeast Targeted States:

Aquaculture (Clams)—(MA)
Nursery—(CT, DE, MA, ME, MD, NH, NY, NJ, PA, RI, VT, and WV)
AGR—(CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, and VT)
AGR-Lite—(CT, DE, MA, ME, MD, NH, NY, NJ, PA, RI, VT, and WV)
Livestock and Livestock Risk Protection (LRP)—(WV)
Pasture Rangeland and Forage Rainfall Index and the Pasture Rangeland and Forage Vegetation Index—(PA)

II. Award Information

A. Type of Award

Cooperative Agreements, which require the substantial involvement of RMA.

B. Funding Availability

Approximately $4,500,000 is available in fiscal year 2007 to fund up to 15 cooperative agreements, a maximum of one agreement for each of the Targeted States. The maximum funding amount anticipated for each Targeted State's agreement is as follows. Applicants should apply for funding for that Targeted State where the applicant intends on delivering educational activities.

Connecticut	$225,000
Delaware	261,000
Maine	225,000
Maryland	370,000
Massachusetts	209,000
Nevada	208,000
New Hampshire	173,000
New Jersey	272,000
New York	617,000
Pennsylvania	754,000
Rhode Island	157,000
Utah	301,000
Vermont	226,000
West Virginia	209,000
Wyoming	293,000
Total	4,500,000

Funding amounts were determined by first allocating an equal amount of $150,000 to each Targeted State. Remaining funds were allocated on a pro rata basis according to each Targeted State's share of 2000 agricultural cash receipts relative to the total for all Targeted States. Both allocations were totaled for each Targeted State and rounded to the nearest $1,000.

In the event that additional funds become available under this program or in the event that no application for a given Targeted State is recommended for funding by the evaluation panel, these additional funds may, at the discretion of the Manager of FCIC, be allocated pro-rata to State awardees for use in broadening the size or scope of awarded projects within the Targeted State if agreed to by the awardee.

In the event that the Manager of FCIC determines that available RMA resources cannot support the administrative and substantial involvement requirements of all agreements recommended for funding, the Manager may elect to fund fewer agreements than the available funding might otherwise allow. It is expected that the awards will be made approximately 60 days after the application deadline. All awards will be made and agreements finalized no later than September 30, 2007.

C. Location and Target Audience

Targeted States serviced by RMA Regional Offices are listed below. Staff from the respective RMA Regional Offices will provide substantial involvement for Targeted States projects conducted within the respective Regions.

Billings, MT Regional Office: (WY).
Davis, CA Regional Office: (NV and UT).
Raleigh, NC Regional Office: (CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VT and WV).

Applicants must clearly designate in their application narrative the Targeted State where crop insurance educational activities for the project will be delivered. Applicants may apply to deliver education to producers in more than one Targeted State, but a separate application must be submitted for each Targeted State. Single applications proposing to conduct educational activities in more than one Targeted State will be rejected.

D. Maximum Award

Any application that requests Federal funding of more than the amount listed above for a project in a given Targeted State will be rejected.

E. Project Period

Projects will be funded for a period of up to one year from the project starting date.

F. Description of Agreement Award

Awardee Tasks

In conducting activities to achieve the purpose and goal of this program in a designated Targeted State, the awardee will be responsible for performing the following tasks:

- Develop and conduct a promotional program. This program will include activities using media, newsletters, publications, or other appropriate informational dissemination techniques that are designed to: (a) Raise awareness for crop insurance; (b) inform producers of the availability of crop insurance; (c) inform producers of the crop insurance sales closing dates prior to the deadline; and (d) inform producers and agribusiness leaders in the designated Targeted State of training and informational opportunities.
- Deliver crop insurance training and informational opportunities to agricultural producers and agribusiness professionals in the designated Targeted State in a timely manner prior to crop insurance sales closing dates in order for producers to make informed decisions prior to the crop insurance sales closing dates deadline. This will include organizing and delivering educational activities using instructional materials that have been assembled to meet the local needs of agricultural producers. Activities should be directed primarily to agricultural producers, but may include those agribusiness professionals that have frequent opportunities to advise producers on crop insurance tools and decisions.
- Document all educational activities conducted under the cooperative agreement and the results of such activities, including criteria and indicators used to evaluate the success of the program. The awardee may also be required to provide information to an RMA-selected contractor to evaluate all educational activities and advise RMA as to the effectiveness of activities.

G. RMA Activities

FCIC, working through RMA, will be substantially involved during the performance of the funded project through three of RMA's ten Regional Offices. Potential types of substantial involvement may include, but are not limited to the following activities.

- Assist in the selection of subcontractors and project staff.
- Collaborate with the awardee in assembling, reviewing, and approving risk management materials for producers in the designated RMA Region.
- Collaborate with the awardee in reviewing and approving a promotional program for raising awareness for risk management and for informing producers of training and informational opportunities in the RMA Region.
- Collaborate with the awardee on the delivery of education to producers and agribusiness leaders in the RMA Region. This will include: (a) Reviewing and approving in advance all producer and agribusiness leader educational activities; (b) advising the project leader on technical issues related to crop insurance education and information; and (c) assisting the project leader in informing crop insurance professionals about educational activity plans and scheduled meetings.
- Conduct an evaluation of the performance of the awardee in meeting the deliverables of the project.

Applications that do not contain substantial involvement by RMA will be rejected.

H. Other Tasks

In addition to the specific, required tasks listed above, the applicant may propose additional tasks that would contribute directly to the purpose of this program. For any proposed additional task, the applicant must identify the objective of the task, the specific subtasks required to meet the objective, specific time lines for performing the subtasks, and the specific responsibilities of partners. The applicant must also identify specific ways in which RMA would have substantial involvement in the proposed project task.

III. Eligibility Information

A. Eligible Applicants

Eligible applicants include State departments of agriculture, universities, non-profit agricultural organizations, and other public or private organizations with the capacity to lead a local program of crop insurance education for farmers and ranchers within a Targeted State. Individuals are eligible applicants. Although an applicant may be eligible to compete for an award based on its status as an eligible entity, other factors may exclude an applicant from receiving Federal assistance under this program governed by Federal law and regulations (e.g. debarment and suspension; a determination of non-performance on a prior contract, cooperative agreement, grant or partnership; a determination of a violation of applicable ethical standards; a determination of being considered "high risk"). Applications from ineligible or excluded persons will be rejected in their entirety.

B. Cost Sharing or Matching

Although RMA prefers cost sharing by the applicant, this program has neither a cost sharing nor a matching requirement.

IV. Application and Submission Information

A. Contact To Request Application Package

Program application materials for the Targeted States Program under this announcement may be downloaded from *http://www.rma.usda.gov/aboutrma/agreements.* Applicants may also request application materials from: Lon Burke, USDA–RMA–RME, *phone:* (202) 720–5265, *fax:* (202) 690–3605, *e-mail: RMA.Risk-Ed@rma.usda.gov.*

B. Content and Form of Application Submission

A complete and valid application package must include an electronic copy (Microsoft Word format preferred) of the narrative portion (Forms RME–1 and RME–2) of the application package on a compact disc and an original and two copies of the completed and signed application must be submitted in one package at the time of initial submission, which must include the following:

1. A completed and signed OMB Standard Form 424, "Application for Federal Assistance."
2. A completed and signed OMB Standard Form 424–, "Budget Information—Non-construction Programs." Federal funding requested (the total of direct and indirect costs) must not exceed the maximum level for the respective Targeted State, as specified in Section II, Award Information.
3. A completed and signed OMB Standard Form 424–, "Assurances, Non-constructive Programs."
4. Risk Management Education Project Narrative (Form RME–1). Complete all required parts of Form RME–1:

Part I—Title Page.

Part II—A written narrative of no more than 10 single-sided pages which will provide reviewers with sufficient information to effectively evaluate the merits of the application according to the evaluation criteria listed in this notice. Although a Statement of Work, which is the second evaluation criterion, is to be completed in detail in RME Form-2, applicants may wish to highlight certain unique features of the Statement of Work in Part II for the benefit of the evaluation panel. If your

narrative exceeds the page limit, only the first 10 pages will be reviewed.

- No smaller than 12 point font size.
- Use an easily readable font face (e.g., Arial, Geneva, Helvetica, Times Roman).
- 8.5 by 11 inch paper.
- One-inch margins on each page.
- Printed on only one side of paper.
- Held together only by rubber bands or metal clips; not bound or stapled in any other way.

Part III—A Budget Narrative, describing how the categorical costs listed on SF 424–A are derived. The budget narrative should provide enough detail for reviewers to easily understand how costs were determined and how they relate to the goals and objectives of the project.

Part IV—(Not required for Targeted States Program).

5. "Statement of Work," (Form RME–2), which identifies tasks and subtasks in detail, expected completion dates and deliverables, and RMA's substantial involvement role for the proposed project.

Applications that do not include items 1–5 above will be considered incomplete and will not receive further consideration and will be rejected.

C. Submission Dates and Times

Applications Deadline: Applications are due 5 p.m. EDT, April 23, 2007.

Applicants are responsible for ensuring that RMA receives a complete application package by the closing date and time. USPS mail sent to Washington D.C. headquarters is sanitized offsite, which may result in delays, loss, and physical damage to enclosures. Regardless of the delivery method you choose, please do so sufficiently in advance of the due date to ensure your application package is received on or before the deadline. It is your responsibility to meet the due date and time. Emailed and faxed applications will not be accepted. Late application packages will not receive further consideration and will be rejected.

D. Funding Restrictions

Cooperative agreement funds may not be used to:

a. Plan, repair, rehabilitate, acquire, or construct a building or facility including a processing facility;

b. Purchase, rent, or install fixed equipment;

c. Repair or maintain privately owned vehicles;

d. Pay for the preparation of the cooperative agreement application;

e. Fund political activities;

f. Alcohol, food, beverage, or entertainment;

g. Pay costs incurred prior to receiving a cooperative agreement;

h. Fund any activities prohibited in 7 CFR Parts 3015 and 3019, as applicable.

E. Limitation on Use of Project Funds for Salaries and Benefits

Total costs for salary and benefits allowed for projects under this announcement will be limited to not more than 60 percent reimbursement of the funds awarded under the cooperative agreement. One goal of the Targeted States Program is to maximize the use of the limited funding available for crop insurance education for Targeted States. In order to accomplish this goal, RMA needs to ensure that the maximum amount of funds practicable is used for directly providing the educational opportunities. Limiting the amount of funding for salaries and benefits will allow the limited amount of funding to reach the maximum number of farmers and ranchers.

F. Indirect Cost Rates

a. Indirect costs allowed for projects submitted under this announcement will be limited to ten (10) percent of the total direct cost of the cooperative agreement. Therefore, when preparing budgets, applicants should limit their requests for recovery of indirect costs to the lesser of their institution's official negotiated indirect cost rate or 10 percent of the total direct costs.

b. RMA will withhold all indirect cost rate funds for an award to an applicant requesting indirect costs if the applicant has not negotiated an indirect cost rate with its cognizant Federal agency.

c. If an applicant is in the process of negotiating an indirect cost rate with its cognizant Federal agency, RMA will withhold all indirect cost rate funds from that applicant until the indirect cost rate has been established.

d. If an applicant's indirect cost rate has expired or will expire prior to award announcements, a clear statement on renegotiation efforts must be included in the application.

e. It is incumbent on all applicants to have a current indirect cost rate or begin negotiations to establish an indirect cost rate prior to the submission deadline. Because it may take several months to obtain an indirect cost rate, applicants needing an indirect cost rate are encouraged to start work on establishing these rates well in advance of submitting an application. The U.S. Office of Management and Budget (OMB) is responsible for assigning cognizant Federal agencies.

f. Applicants may be asked to provide a copy of their indirect cost rate negotiated with their cognizant agency.

g. RMA reserves the right to negotiate final budgets with successful applicants.

G. Other Submission Requirements

Mailed submissions: Applications submitted through express, overnight mail or another delivery service will be considered as meeting the announced deadline if they are received in the mailroom at the address stated below for express, overnight mail or another delivery service on or before the deadline. Applicants are cautioned that express, overnight mail or other delivery services do not always deliver as agreed. Applicants should take this into account because failure of such delivery services will not extend the deadline. Mailed applications will be considered as meeting the announced deadline if they are received on or before the deadline in the mailroom at the address stated below for mailed applications. Applicants are responsible for mailing applications well in advance, to ensure that applications are received on or before the deadline time and date. Applicants using the U.S. Postal Service should allow for the extra time for delivery due to the additional security measures that mail delivered to government offices in the Washington DC area requires.

Address when using private delivery services or when hand delivering: *Attention:* Risk Management Education Program, USDA/RMA/RME, Room 5720, South Building, 1400 Independence Avenue, SW., Washington, DC 20250.

Address when using U.S. Postal Services: Attention: Risk Management Education Program, USDA/RMA/RME/ Stop 0808, Room 5720, South Building, 1400 Independence Ave, SW., Washington, DC 20250–0808.

H. Electronic Submissions

Applications transmitted electronically via Grants.gov will be accepted prior to the application date or time deadline. The application package can be accessed via Grants.gov, go to *http://www.grants.gov*, click on "Find Grant Opportunities," click on "Search Grant Opportunities," and enter the CFDA number (beginning of the RFA) to search by CFDA number. From the search results, select the item that correlates to the title of this RFA. If you do not have electronic access to the RFA or have trouble downloading material and you would like a hardcopy, you may contact Lon Burke, USDA–RMA–RME, *phone:* (202) 720–5265, fax: (202) 690–3605, *e-mail: RMA.Risk-Ed@rma.usda.gov.*

If assistance is needed to access the application package via Grants.gov (e.g., downloading or navigating PureEdge

forms, using PureEdge with a Macintosh computer), refer to resources available on the Grants.gov Web site first (*http://www.grants.gov/*). Grants.gov assistance is also available as follows:

- Grants.gov customer support

Toll Free: 1–800–518–4726.

Business Hours: M–F 7 a.m.–9 p.m. Eastern Standard Time.

E-mail: support@grants.gov.

Applicants who submit their applications via the Grants.gov website are not required to submit any hard copy documents to RMA.

When using Grants.gov to apply, RMA strongly recommends that you submit the online application at least two weeks prior to the application due date in case there are problems with the Grants.gov website and you want to submit your application via a mail delivery service.

I. Acknowledgement of Applications

Receipt of applications will be acknowledged by e-mail, whenever possible. Therefore, applicants are encouraged to provide e-mail addresses in their applications. If an e-mail address is not indicated on an application, receipt will be acknowledged by letter. There will be no notification of incomplete, unqualified or unfunded applications until the awards have been made. When received by RMA, applications will be assigned an identification number. This number will be communicated to applicants in the acknowledgement of receipt of applications. An application's identification number should be referenced in all correspondence regarding the application. If the applicant does not receive an acknowledgement within 15 days of the submission deadline, the applicant should notify RMA's point of contact indicated in Section VII, Agency Contact.

V. Application Review Process

A. Criteria

Applications submitted under the Targeted States program will be evaluated within each Targeted State according to the following criteria:

Project Benefits—maximum 35 points

The applicant must demonstrate that the project benefits to farmers and ranchers warrant the funding requested. Applicants will be scored according to the extent they can: (a) Reasonably estimate the total number of producers reached through the various educational activities described in the Statement of Work; (b) justify such estimates with clear specifics; (c) identify the actions producers will likely be able to take as a result of the activities described in the Statement of Work; and (d) identify the specific measures for evaluating results that will be employed in the project. Reviewers' scoring will be based on the scope and reasonableness of the applicant's estimates of producers reached through the project, clear descriptions of specific expected project benefits, and well-designed methods for measuring the project's results and effectiveness.

Statement of Work—maximum 25 points

The applicant must produce a clear and specific Statement of Work for the project. For each of the tasks contained in the Description of Agreement Award (refer to Section II Award Information), the applicant must identify and describe specific subtasks, responsible entities, expected completion dates, RMA substantial involvement, and deliverables that will further the purpose of this program. Applicants will obtain a higher score to the extent that the Statement of Work is specific, measurable, reasonable, has specific deadlines for the completion of subtasks, relates directly to the required activities and the program purpose described in this announcement. Applicants are required to submit this Statement of Work on Form RME–2.

Partnering—maximum 15 points

The applicant must demonstrate experience and capacity to partner with and gain the support of grower organizations, agribusiness professionals, and agricultural leaders to carry out a local program of education and information in a designated Targeted State. The applicant is required to establish a written partnering plan that includes how each partner will aid in carrying out the project goal and purpose stated in this announcement and letters of support stating that the partner has agreed to do this work. The applicant must ensure this plan includes a list of all partners working on the project, their titles, and how they will be contributing to the deliverables listed in the agreement. Applicants will receive higher scores to the extent that they can document and demonstrate: (a) That partnership commitments are in place for the express purpose of delivering the program in this announcement; (b) that a broad group of farmers and ranchers will be reached within the Targeted State; (c) that partners are contributing to the project and involved in recruiting producers to attend the training; (d) that a substantial effort has been made to partner with organizations that can meet the needs of producers; and (e) statements from each partner regarding the number of producers that partner is committed to recruit for the project that would support the estimates specified under the Project Benefits criterion.

Project Management—maximum 15 points

The applicant must demonstrate an ability to implement sound and effective project management practices. Higher scores will be awarded to applicants that can demonstrate organizational skills, leadership, and experience in delivering services or programs that assist agricultural producers in the respective Targeted State. The project manager must demonstrate that he/she has the capability to accomplish the project goal and purpose stated in this announcement by (a) having a previous working relationship with the farm community in the designated Targeted State of the application, including being able to recruit approximately the number of producers to be reached in the application and/or (b) having established the capacity to partner with and gain the support of grower organizations, agribusiness professionals, and agribusiness leaders locally to aid in carrying out a program of education and information, including being able to recruit approximately the number of producers to be reached in this application. Applicants that will employ, or have access to, personnel who have experience in directing local educational programs that benefit agricultural producers in the respective Targeted State will receive higher rankings.

Past Performance—Maximum 10 Points

If the applicant has been an awardee of other Federal or other government grants, cooperative agreements, or contracts, the applicant must provide information relating to their past performance in reporting on outputs and outcomes under past or current federal assistance agreements. The applicant must also detail that they have consistently complied with financial and program reporting and auditing requirements. RMA reserves the right to add up to 10 points and subtract 5 points to applications due to past performance. Applicants with very good past performance will receive a score from 6–10 points. Applicants with acceptable past performance will receive a score from 1–5 points. Applicants with unacceptable past performance will receive a score of minus 5 points for this evaluation factor. Applicants without relevant past

performance information will receive a neutral score of the mean number of points of all applicants with past performance. Under this cooperative partnership agreement, RMA will subjectively rate the awardee on project performance as indicated in Section II, G. The applicant must list all current public or private support to which personnel identified in the application have committed portions of their time, whether or not salary support for persons involved is included in the budget. An application that duplicates or overlaps substantially with an application already reviewed and funded (or to be funded) by another organization or agency will not be funded under this program. The projects proposed for funding should be included in the pending section.

Budget Appropriateness and Efficiency—Maximum 15 points

Applicants must provide a detailed budget summary that clearly explains and justifies costs associated with the project. Applicants will receive higher scores to the extent that they can demonstrate a fair and reasonable use of funds appropriate for the project and a budget that contains the estimated cost of reaching each individual producer. The applicant must provide information factors such as:

- The allowability and necessity for individual cost categories;
- The reasonableness of amounts estimated for necessary costs;
- The basis used for allocating indirect or overhead costs;
- The appropriateness of allocating particular overhead costs to the proposed project as direct costs; and
- The percent of time devoted to the project for all key project personnel identified in the application. Salaries of project personnel should be requested in proportion to the percent of time that they would devote to the project—Note: cannot exceed 60% of the total project budget. Applicants must list all current public or private support to which personnel identified in the application have committed portions of their time, whether or not salary support for persons involved is included in the budget. Only items or services that are necessary for the successful completion of the project will be funded as permitted under the Act.

B. Review and Selection Process

Applications will be evaluated using a two-part process. First, each application will be screened by RMA personnel to ensure that it meets the requirements in this announcement. Applications that do not meet the requirements of this announcement or are incomplete will not receive further consideration during the next process. Applications that meet announcement requirements will be sorted into the Targeted State in which the applicant proposes to conduct the project and will be presented to a review panel for consideration.

Second, the review panel will meet to consider and discuss the merits of each application. The panel will consist of not less than two independent reviewers. Reviewers will be drawn from USDA, other Federal agencies, and others representing public and private organizations, as needed. After considering the merits of all applications within a Targeted State, panel members will score each application according to the criteria and point values listed above. The panel will then rank each application against others within the Targeted State according to the scores received. A lottery will be used to resolve any instances of a tie score that might have a bearing on funding recommendations. If such a lottery is required, the names of all tied applicants will be entered into a drawing. The first tied applicant drawn will have priority over other tied applicants for funding consideration.

The review panel will report the results of the evaluation to the Manager of FCIC. The panel's report will include the recommended applicants to receive cooperative agreements for each Targeted State. Funding will not be provided for an application receiving a score less than 60. An organization, or group of organizations in partnership, may apply for funding under other FCIC or RMA programs, in addition to the program described in this announcement. However, if the Manager of FCIC determines that an application recommended for funding is sufficiently similar to a project that has been funded or has been recommended to be funded under another RMA or FCIC program, then the Manager may elect to not fund that application in whole or in part. The Manager of FCIC will make the final determination on those applications that will be awarded funding.

VI. Award Administration Information

A. Award Notices

Following approval by the awarding official of RMA of the applications to be selected for funding, project leaders whose applications have been selected for funding will be notified. Within the limit of funds available for such a purpose, the awarding official of RMA shall enter into cooperative agreements with those awardees. The agreements provide the amount of Federal funds for use in the project period, the terms and conditions of the award, and the time period for the project. The effective date of the agreement shall be on the date the agreement is executed by both parties and it shall remain in effect for up to one year or through September 30, 2008, whichever is later.

After a cooperative agreement has been signed, RMA will extend to awardees, in writing, the authority to draw down funds for the purpose of conducting the activities listed in the agreement. All funds provided to the awardee by FCIC must be expended solely for the purpose for which the funds are obligated in accordance with the approved agreement and budget, the regulations, the terms and conditions of the award, and the applicability of Federal cost principles. No commitment of Federal assistance beyond the project period is made or implied for any award resulting from this notice.

Notification of denial of funding will be sent to applicants after final funding decisions have been made and awardees announced publicly. Reasons for denial of funding can include, but are not limited to, incomplete applications, applications with evaluation scores below 60, or applications with evaluation scores that are lower than those of other applications in a Targeted State.

B. Administrative and National Policy Requirements

1. Requirement to Use Program Logo

Awardees of cooperative agreements will be required to use a program logo and design provided by RMA for all instructional and promotional materials.

2. Requirement to Provide Project Information to an RMA-Selected Representative

Awardees of cooperative agreements may be required to assist RMA in evaluating the effectiveness of its educational programs by providing documentation of educational activities and related information to any contractor selected by RMA for program evaluation purposes.

3. Private Crop Insurance Organizations and Potential Conflicts of Interest

Private organizations that are involved in the sale of Federal crop insurance, or that have financial ties to such organizations, are eligible to apply for funding under this announcement. However, such entities will not be allowed to receive funding to conduct activities that would otherwise be required under a Standard Reinsurance

Agreement or any other agreement in effect between FCIC and the entity. Also, such entities will not be allowed to receive funding to conduct activities that could be perceived by producers as promoting one company's services or products over another's. If applying for funding, such organizations are encouraged to be sensitive to potential conflicts of interest and to describe in their application the specific actions they will take to avoid actual and perceived conflicts of interest.

4. Access to Panel Review Information

Upon written request from the applicant, scores from the evaluation panel, not including the identity of reviewers, will be sent to the applicant after the review and awards process has been completed.

5. Confidential Aspects of Applications and Awards

The names of applicants, the names of individuals identified in the applications, the content of applications, and the panel evaluations of applications will all be kept confidential, except to those involved in the review process, to the extent permitted by law. In addition, the identities of review panel members will remain confidential throughout the entire review process and will not be released to applicants. At the end of the fiscal year, names of panel members will be made available. However, panelists will not be identified with the review of any particular application. When an application results in a cooperative agreement, that agreement becomes a part of the official record of RMA transactions, available to the public upon specific request. Information that the Secretary of Agriculture determines to be of a confidential, privileged, or proprietary nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to be considered confidential, privileged, or proprietary should be clearly marked within an application, including the basis for such designation. The original copy of an application that does not result in an award will be retained by RMA for a period of one year. Other copies will be destroyed. Copies of applications not receiving awards will be released only with the express written consent of the applicant or to the extent required by law. An application may be withdrawn at any time prior to award.

6. Audit Requirements

Awardees of cooperative agreements are subject to audit.

7. Prohibitions and Requirements Regarding Lobbying

Section 1352 of Public Law 101–121, enacted on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on awardees of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian Tribes and tribal organizations. Current and prospective awardees, and any subcontractors, are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement, or loan. In addition, for each award action in excess of $100,000 ($150,000 for loans) the law requires awardees and any subcontractors: (1) To certify that they have neither used nor will use any appropriated funds for payment of lobbyists; (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom awardees of their subcontractors will pay with profits or other non-appropriated funds on or after December 22, 1989; and (3) to file quarterly up-dates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for non-compliance. A copy of the certification and disclosure forms must be submitted with the application and are available at the address and telephone number listed in Section VII. Agency Contact.

8. Applicable OMB Circulars

All cooperative agreements funded as a result of this notice will be subject to the requirements contained in all applicable OMB circulars.

9. Requirement To Assure Compliance With Federal Civil Rights Laws

Project leaders of all cooperative agreements funded as a result of this notice are required to know and abide by Federal civil rights laws and to assure USDA and RMA that the awardee is in compliance with and will continue to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et. seq.), 7 CFR Part 15, and USDA regulations promulgated thereunder, 7 CFR § 1901.202. RMA requires that awardees submit Form RD 400–4, Assurance Agreement (Civil Rights), assuring RMA of this compliance prior to the beginning of the project period.

10. Requirement To Participate in a Post Award Conference

RMA requires that project leaders attend a post award conference to become fully aware of cooperative agreement requirements and for delineating the roles of RMA personnel and the procedures that will be followed in administering the agreement and will afford an opportunity for the orderly transition of agreement duties and obligations if different personnel are to assume post-award responsibility. In their applications, applicants should budget for possible travel costs associated with attending this conference.

11. Requirement To Submit Educational Materials to the National AgRisk Education Library

RMA requires that project leaders upload digital copies of all risk management educational materials developed because of the project to the National AgRisk Education Library (*http://www.agrisk.umn.edu/*) for posting. RMA will be clearly identified as having provided funding for the materials.

C. Reporting Requirements

Awardees will be required to submit quarterly progress reports, quarterly financial reports (OMB Standard Form 269), and quarterly Activity Logs (Form RME–3) throughout the project period, as well as a final program and financial report not later than 90 days after the end of the project period.

Awardees will be required to submit prior to the award:

- A completed and signed Form RD 400–4, Assurance Agreement (Civil Rights).
- A completed and signed OMB Standard Form LLL, "Disclosure of Lobbying Activities."
- A completed and signed AD–1047, "Certification Regarding Debarment, Suspension and Other Responsibility Matters—Primary Covered Transactions."
- A completed and signed AD–1049, "Certification Regarding Drug-Free Workplace."
- A completed and signed Faith-Based Survey on EEO.

VII. Agency Contact

For Further Information Contact: Applicants and other interested parties are encouraged to contact: Lon Burke, USDA–RMA–RME, *phone:* 202–720–5265, *fax:* 202–690–3605, *e-mail: RMA.Risk-Ed@rma.usda.gov.* You may also obtain information regarding this announcement from the RMA Web site at: *http://www.rma.usda.gov/aboutrma/agreements/.*

VIII. Additional Information

A. Dun and Bradstreet Data Universal Numbering System (DUNS)

A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of over 70 million businesses worldwide. The Office of Management and Budget published a notice of final policy issuance in the **Federal Register** June 27, 2003 (68 FR 38402) that requires a DUNS number in every application (i.e., hard copy and electronic) for a grant or cooperative agreement on or after October 1, 2003. Therefore, potential applicants should verify that they have a DUNS number or take the steps needed to obtain one. For information about how to obtain a DUNS number, go to *http://www.grants.gov*. Please note that the registration may take up to 14 business days to complete.

B. Required Registration With the Central Contract Registry for Submission of Proposals

The Central Contract Registry (CCR) is a database that serves as the primary Government repository for contractor information required for the conduct of business with the Government. This database will also be used as a central location for maintaining organizational information for organizations seeking and receiving grants from the Government. Such organizations must register in the CCR prior to the submission of applications. A DUNS number is needed for CCR registration. For information about how to register in the CCR, visit "Get Started" at the Web site, *http://www.grants.gov*. Allow a minimum of 5 business days to complete the CCR registration.

C. Related Programs

Funding availability for this program may be announced at approximately the same time as funding availability for similar but separate programs—CFDA No. 10.455 (Community Outreach and Assistance Partnerships), CFDA No. 10.456 (Risk Management Research Partnerships), CFDA No. 10.457 (Commodity Partnerships for Risk Management Education), and CFDA No. 10.459 (Commodity Partnerships Small Sessions Program). These programs have some similarities, but also key differences. The differences stem from important features of each program's authorizing legislation and different RMA objectives. Prospective applicants should carefully examine and compare the notices for each program.

Signed in Washington, DC, on March 8, 2007.

Eldon Gould,

Manager, Federal Crop Insurance Corporation.

[FR Doc. E7–4594 Filed 3–13–07; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Forest Service

30-Day Pre-Decisional Review and Opportunity To Object; Cimarron and Comanche National Grasslands Land Management Plan (Grasslands Plan)

AGENCY: The Pike and San Isabel National Forests and the Cimarron and Comanche National Grasslands, Forest Service, U.S.D.A.

Authority: 36 CFR 219.9(b)(2)(i) and 36 CFR 219.9(b)(2)(iii).

NOTICE: Availability of the Cimarron and Comanche National Grasslands Land Management Plan (Grasslands Plan), and 30-Day Pre-decisional Review and Objection Period.

SUMMARY: The Forest Supervisor for the Pike and San Isabel National Forests and the Cimarron and Comanche National Grasslands (PSICC) has made available the Cimarron and Comanche National Grasslands Land Management Plan (Grasslands Plan) for a 30-day pre-decisional review and objection period. The 30-day pre-decisional review and objection period commences the day following the publication of the legal notice in the Pueblo Chieftain, Pueblo, Colorado.

DATES: March 8, 2007.

FOR FURTHER INFORMATION CONTACT: Barb Masinton, 719–553–1475.

SUPPLEMENTARY INFORMATION: The Forest Supervisor for the PSICC has announced a 30-day pre-decisional review and objection period for the Grasslands Plan, as provided by 36 CFR 219.13(a). The 30-day pre-decisional review and objection period will commence the day following the publication date of the legal notice in the Pueblo Chieftain, Pueblo, Colorado. The publication date of the legal notice in this newspaper of record is the exclusive means for calculating the time to file an objection (see January 2006 Forest Service Handbook 1909.12, Chapter 50, section 51.13b).

Objections may be filed only by non-federal agencies, organizations and individuals who participated in the planning process through the submission of written comments to the Forest Service pertaining to the Grasslands Plan or supporting documents. It is helpful to reference your earlier written comments to document your standing in this objection process. These objections must be: (a) In writing, (b) submitted to the Grasslands Plan Reviewing Officer (Regional Forester, Rocky Mountain Region), and (c) submitted during the 30-day pre-decisional review and objection period. Additionally, objections must contain the following:

1. The name, mailing address, and telephone number of the person or entity filing the objection. Where a single objection is filed by more than one person, the objection must indicate the lead objector to contact. The Reviewing Officer may appoint the first name listed as the lead objector to act on behalf of all parties to the single objection when the single objection does not specify a lead objector. The Reviewing Officer may communicate directly with the lead objector and is not required to notify the other listed objectors about the objection response or any other written correspondence related to the single objection;

2. A statement of the issues and the parts of the Grasslands Plan to which the objection applies, and how the objecting party would be adversely affected;

3. A concise statement explaining how the objector believes that the Grasslands Plan in inconsistent with law, regulation, or policy, or how the objector disagrees with the decision, and providing any recommendations for change; and

4. A signature or other verification of authorship is required (a scanned signature when filing electronically is acceptable).

The written notice of objection, including attachments, must be submitted to the Grasslands Plan Reviewing Officer for the Rocky Mountain Region by mail, e-mail, fax, hand-delivery, express delivery, or messenger service.

Objections sent by the U.S. Postal Service must be mailed to: USDA Forest Service, Rocky Mountain Region, *ATTN:* Rick Cables, Regional Forester and Grasslands Plan Reviewing Officer, P.O. Box 25127, Lakewood, CO 80225.

E-mail: Electronically-filed objections will be accepted at: *objections-rocky-mountain-regional-office@fs.fed.us.*

E-mailed objections must be in Microsoft Word, Corel WordPerfect, or rich text format (.rtf) file formats. For electronically-mailed objections, the sender should typically receive an automated electronic acknowledgment from the agency as confirmation of receipt. If the sender does not receive an automated acknowledgement of the

receipt of the objection, it is the sender's responsibility to ensure timely receipt by other means.

Fax: The number to use for faxing written objections is: (303) 275–5482.

Objections that are delivered by hand, by express delivery, or messenger service must be done so during business hours, Monday through Friday (excluding holidays) from 7:30 a.m. until 4:30 p.m., Mountain Time, at: USDA Forest Service, Rocky Mountain Region, *ATTN:* Rick Cables, Regional Forester and Grasslands Plan Reviewing Officer, 740 Simms Street, Golden, CO 80401.

Objections must be postmarked, e-mailed, faxed, or hand-delivered within 30 days following the date of publication of the legal notice in the Pueblo Chieftain, Pueblo, Colorado.

The pre-decisional Grasslands Plan and supporting documents can be accessed, viewed, and downloaded at the following Web site: *http://www.fs.fed.us/r2/psicc/projects/forest_revision/.* The Grasslands Plan is also available in paper copy or compact disc (CD) formats by request.

Note that all objections, including names and addresses, become part of the public record and are subject to Freedom of Information Act (FOIA) requests, except for proprietary documents and information.

Dated: March 8, 2007.

Robert J. Leaverton,

Forest Supervisor.

[FR Doc. 07–1178 Filed 3–13–07; 8:45 am]

BILLING CODE 3410–ES–M

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of First Request for Panel Review.

SUMMARY: On March 2, 2007, Mueller Industries, Inc. (Memphis, Tennessee), Streamline Copper & Brass Ltd. (Strathroy, Ontario) and affiliated companies within the Mueller Group (collectively referred to herein as "Mueller") are the interested Parties; filed a First Request for Panel Review with the Canadian Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the final determination of dumping made by the Canada Border Services Agency, respecting Certain Copper Pipe Fittings Originating In Or Exported From the United States of America. This determination was published in the *Canada Gazette*, Part I, (Vol. 141, No. 5, pp. 188) on February 3, 2007. The NAFTA Secretariat has assigned Case Number CDA–USA–2007–1904–01 to this request.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* ("Rules"). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the Canadian Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on March 2, 2007, requesting panel review of the final determination described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is April 2, 2007);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is April 16, 2007); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: March 8, 2007.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. E7–4570 Filed 3–13–07; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Notice of Completion of Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Completion of Panel Review of the final remand determination of the antidumping duty administrative review and determination not to revoke made by the U.S. International Trade Administration, in the matter of Oil Country Tubular Goods from Mexico, Secretariat File No. USA/MEX–2001–1904–05.

SUMMARY: Pursuant to the Order of the Binational Panel dated January 16, 2007, affirming the final remand determination described above was completed on January 16, 2007.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: On January 16, 2007, the Binational Panel issued an order which affirmed the final remand determination of the United States International Trade Administration ("ITA") concerning Oil Country Tubular Goods from Mexico. The Secretariat was instructed to issue a Notice of Completion of Panel Review on the 31st day following the issuance of the Notice of Final Panel Action, if no request for an Extraordinary Challenge was filed. No such request was filed. Therefore, on the basis of the Panel Order and Rule 80 of the *Article 1904 Panel Rules*, the Panel Review was completed and the panelists discharged from their duties effective March 5, 2007.

Dated: March 9, 2007.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. E7–4653 Filed 3–13–07; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 030107E]

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

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

ACTION: Notice.

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

DATES: The meetings will be held March 26 - 30, 2007.

ADDRESSES: The meetings will be held at the Embassy Suites, 570 Scenic Gulf Drive, Destin, FL 32550.

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

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

SUPPLEMENTARY INFORMATION: This notice published in the **Federal Register** on March 7, 2007 (72 FR 10171). It is being republished in its entirety due to additional agenda items.

Council

Thursday, March 29, 2007

8:30 a.m. - The Council meeting will begin with a review of the agenda and minutes.

8:45 a.m. to 9 a.m. - Public testimony on exempted fishing permits (EFPs), if any.

9 a.m. to 11:30 a.m. - The Council will hold an Open Public Comment Period regarding any fishery issue or concern. People wishing to speak before the Council should complete a public comment card prior to the comment period.

The Council will then review and discuss reports from the previous three day's committee meetings as follows:

1 p.m. - 3:30 p.m. - Joint Reef Fish/ Shrimp Management;

3:30 p.m. - 4:30 p.m. - Reef Fish Management;

4:30 p.m. - 5:30 p.m. - CLOSED SESSION for Advisory Panel (AP) and Scientific and Statistical Committee (SSC) Section Committees and Reef Fish Committee.

Friday, March 30, 2007

8:30 a.m. - The Council meeting will reconvene to continue reviewing and discussing reports from the previous three day's committee meetings as follows:

8:30 a.m. - 9 a.m. - Mackerel Management;

9 a.m. - 9:30 a.m. - Joint Reef Fish/ Mackerel/Red Drum;

9:30 a.m. - 9:45 a.m. - Budget/ Personnel;

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

10 a.m. - 11 a.m. - Administrative Policy; and.

11 a.m. - 12 p.m. - Other Business items.

Committees

Monday, March 26, 2007

1 p.m. - 3:30 p.m. - CLOSED SESSION - The AP Selection Committee will meet to appoint AP members.

3:30 p.m. - 5 p.m. - CLOSED SESSION - The SSC Selection Committee will meet to appoint SSC, Stock Assessment Panel (SAP) and Socioeconomic Panel (SEP) members.

5 p.m. - 5:30 p.m. - The Budget/ Personnel Committee will meet to discuss the State Liaison Budget Increases.

6:30 p.m. - 7:30 p.m. - NMFS Public Scoping Session on Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) provision regarding National Environmental Protection Agency (NEPA) review for fisheries management actions.

Tuesday March 27, 2007

8:30 a.m. - 12 p.m. - The Joint Reef Fish/Shrimp Management Committee will meet to review Southeast Fishery Science Center (SEFSC) Analyses Runs. The Committee will also review the current Public Hearing Draft of Reef Fish Amendment 27/Shrimp Amendment 14 and the SSC's recommendations; the NMFS' FEIS and Interim Rule for Red Snapper; the SEFSC Report on Release Mortality in Relation to Depth and Dolphin Predation, the Framework Action to Revise the List of Allowable bycatch reduction devices (BRDs); NMFS Interim Rule for Red Snapper; and an Options Paper for Reef Fish Amendment 31/Shrimp Amendment 15.

1:30 p.m. - 5:30 p.m. - The Joint Reef Fish/Shrimp Management Committee continues.

6:30 p.m. - 7:30 p.m. - NMFS Public Scoping Session on guidance for use of the annual catch limits.

Wednesday, March 28, 2007

8:30 a.m. - 12 p.m. - The Reef Fish Management Committee will meet to discuss the updates on Reef Fish Amendment 29; the Ad Hoc Grouper Individual Fishing Quota (IFQ) AP recommendations for an IFQ program; the Guidelines for a Referendum for Grouper/Tilefish IFQ; the Scoping Document for Amendment 30; and possibly consider NMFS communications protocol allowing VMS units to be "powered down" when in port; PARTIALLY CLOSED SESSION - the formation of an Ad Hoc Recreational Red Snapper AP for developing new ideas to manage recreational and for-hire red snapper fisheries.

1:30 p.m. - 2:30 p.m. - The Joint Reef Fish/Mackerel/Red Drum Committees will meet to discuss the Status Report on a Public Hearing Draft for the Generic Aquaculture Amendment and SSC Recommendations on completing a Red Drum SEDAR Stock Assessment.

2:30 p.m. - 4 p.m. - The Administrative Policy Committee will meet to discuss the Magnuson-Stevens Act Requirements for Annual Catch Limits.

4 p.m. - 5 p.m. - The Data Collection Committee will meet to discuss a paper for an Amendment to Require Trip Tickets for Recreational-For-Hire Sector.

5 p.m. - 5:30 p.m. - The Mackerel Management Committee will meet to reconsider the Joint Mackerel Management Committee report and an associated scoping document for Amendment 16 to the Coastal Migratory Pelagics Fishery Management Plan (FMP) from its September 18 & 19, 2006 meeting.

6 p.m. - 8 p.m. - NMFS will provide an update on the Red Snapper IFQ program and there will be a Question and Answer Session.

The committee reports will be presented to the Council for consideration on Thursday March 29, and on Friday, March 30, 2007.

Although other non-emergency issues not on the agendas may come before the Council and Committees for discussion, in accordance with the Magnuson-Stevens Act, those issues may not be the subject of formal action during these meetings. Actions of the Council and Committees will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency. The established times for addressing items on the

agenda may be adjusted as necessary to accommodate the timely completion of discussion relevant to the agenda items. In order to further allow for such adjustments and completion of all items on the agenda, the meeting may be extended from, or completed prior to the date established in this notice.

Special Accommodations

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

Dated: March 9, 2007.

Tracey L. Thompson,

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

[FR Doc. E7–4608 Filed 3–13–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 030807C]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

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

DATES: The meeting will be held on Thursday, March 29, 2007, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Radisson Hotel, 180 Water Street, Plymouth, MA 02360; telephone: (508) 747–4900; fax: (508) 747–8937.

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

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

SUPPLEMENTARY INFORMATION: The Committee will review several final cooperative research project reports and develop management advice for use by the Council; provide a list of 2007 research priorities for Council consideration and address the Northeast Fisheries Science Center's report on the impacts of fishing on groundfish spawning activities and related follow-up activities concerning the Northeast Region's Experimental Fishing Permit Program.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens 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 Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: March 9, 2007.

Tracey L. Thompson,

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

[FR Doc. E7–4609 Filed 3–13–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 030807A]

Endangered Species; File No. 1486

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

ACTION: Notice; issuance of permit modification.

SUMMARY: Notice is hereby given that Harold M. Brundage, Environmental Research and Consulting, Inc., has been issued a modification to scientific research Permit No. 1486.

ADDRESSES: The modification and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978)281–9300; fax (978)281–9394.

FOR FURTHER INFORMATION CONTACT: Brandy Hutnak or Malcolm Mohead, (301)713–2289.

SUPPLEMENTARY INFORMATION: On January 16, 2007, notice was published in the **Federal Register** (72 FR 1707) that a modification of Permit No. 1486, issued December 22, 2004 (69 FR 30287), had been requested by the above-named individual. The requested modification has been granted under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The modification authorizes Mr. Brundage to take 1,000 shortnose sturgeon (*Acipenser brevirostrum*) early life stages (eggs and larvae) from the Delaware River System. Eggs will be collected using artificial substrates and larvae will be captured by passive ichthyoplankton nets, an epibenthic sled, and pump sampling. This research will help document spawning occurrence and location, as well as identify possible critical habitat or critical areas for shortnose sturgeon spawning and nursery.

Issuance of this modification, as required by the ESA was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of such endangered or threatened species, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: March 8, 2007..

Tammy C. Adams,

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

[FR Doc. E7–4674 Filed 3–13–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability of a Draft Environmental Impact Statement (DEIS) for Base Realignment and Closure Actions at Aberdeen Proving Ground, MD

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability (NOA).

SUMMARY: The Department of the Army announces the availability of a DEIS that

evaluates the potential environmental impacts associated with realignment actions directed by the Base Realignment and Closure (BRAC) Commission at Aberdeen Proving Ground, Maryland.

DATES: The public comment period for the DEIS will end 45 days after publication of an NOA in the **Federal Register** by the U.S. Environmental Protection Agency.

ADDRESSES: Please send written comments on the DEIS to Mr. Buddy Keesee at: Department of the Army, Directorate of Safety, Health, and Environment, Attention: IMNE–APG–SHE–R (Bud Keesee), Building 5650, Aberdeen Proving Ground, MD 21005–5001 or via e-mail at *Buddy.Keesee@us.army.mil.*

FOR FURTHER INFORMATION CONTACT: Mr. Keesee at (410) 278–6755 during normal business hours Monday through Friday.

SUPPLEMENTARY INFORMATION: The Proposed Action and subject of the DEIS covers construction and renovation activities and the movement of personnel associated with the BRAC directed realignment of Aberdeen Proving Ground.

To implement the BRAC recommendations, Aberdeen Proving Ground will be receiving personnel, equipment, and missions from various realignment and closure actions within the Department of Defense. To implement the BRAC Commission recommendations, the Army will provide the necessary facilities/buildings and infrastructure to support the changes. Permanent facilities will be constructed or renovated to house the: Army Research Institute, Army Research Laboratory, Army Test and Evaluation Command, Joint Program Executive Office—Chemical Biological Defense, Walter Reed Army Institute for Research (Medical Research Institute of Chemical Defense), Communications—Electronics Life Cycle Management Command, Communications—Electronics Research Development and Engineering Center, and other units and activities.

All the major planning, engineering, and siting analyses for the incoming BRAC actions at the Aberdeen Proving Ground are essentially complete, however, final design features continue to be reviewed. The DEIS shows areas within which potential construction and/or renovation will occur; although, the exact footprints, in many cases. have not yet been determined. The DEIS analyzes the potential impacts within these developmental areas.

Following a rigorous examination of all implementation alternatives, those alternatives found not to be viable were dropped from further analyses in the DEIS. Alternatives carried forward include the Proposed Alternative and a No Action Alternative. The Proposed Alternative includes construction, renovation, and operation of proposed facilities to accommodate incoming military missions at Aberdeen Proving Ground as mandated by the 2005 BRAC recommendations. Minor alternative siting variations of proposed facilities were also evaluated. The DEIS addresses existing environmental resources likely to be affected by the Proposed Action, including those resources areas identified during the public scoping process. Implementation of the Proposed Alternative will result in significant impacts to transportation and socioeconomic factors. Depending on the final siting of some facilities, there is the potential for significant impacts to cultural resources due to adverse effects resulting from the disturbance or destruction of certain sites and buildings during renovation and construction activities. Impacts to these cultural resources would be direct, long-term, and significant.

No other significant beneficial or significant adverse impacts have been identified for land use, aesthetics and visual resources, air quality, noise, geology and soil, water resources, biological resources, utilities, or hazardous and toxic substances. The No Action Alternative provides the baseline conditions for comparison to the Proposed Alternative.

The Army invites the general public, local governments, other federal agencies, and state agencies to submit written comments or suggestions concerning the alternatives and analyses addressed in the DEIS. An electronic version of the DEIS is available for download on the U.S. Army BRAC Division Web site at: *http://www.hdqa.army.mil/acsim/brac/nepa_eis_docs.htm.* The public and government agencies are invited to participate in a public meeting where oral and written comments and suggestions will be received.

Public meetings are scheduled for April 10, 2007 from 6 p.m. to 8 p.m. at the Ramada Inn Conference Center, 1700 Van Bibber Road, Edgewood, Maryland, and April 11, 2007 from 6 p.m. to 8 p.m. at the Holiday Inn, 1007 Beards Hill Road, Aberdeen, Maryland.

Dated: March 7, 2007.

Addison D. Davis, IV,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health).

[FR Doc. 07–1192 Filed 3–13–07; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Board of Advisors (BOA) to the President, Naval Postgraduate School (NPS)

AGENCY: Department of the Navy, DoD.

ACTION: Notice of open meeting.

SUMMARY: The purpose of the meeting is to elicit the advice of the board on the Naval Service's Postgraduate Education Program and the collaborative exchange and partnership between NPS and the Air Force Institute of Technology. The board examines the effectiveness with which the NPS is accomplishing its mission. To this end, the board will inquire into the curricula, instruction, physical equipment, administration, state of morale of the student body, faculty, and staff, fiscal affairs, and any other matters relating to the operation of the NPS as the board considers pertinent. This meeting will be open to the public.

DATES: The meeting will be held on Tuesday, April 17, 2007, from 8 a.m. to 4 p.m. and on Wednesday, April 18, 2007, from 8 a.m. to 12 p.m. All written comments regarding the NPS BOA should be received by April 6, 2007, and be directed to President, Naval Postgraduate School (Attn: Jaye Panza), 1 University Circle, Monterey, CA 93943–5000 or by fax 831–656–3145.

ADDRESSES: The meeting will be held at the Naval Postgraduate School, Ingersoll Hall, 1 University Circle, Monterey, CA.

FOR FURTHER INFORMATION CONTACT: Jaye Panza, Naval Postgraduate School, Monterey, CA 93943–5000, telephone number 831–656–2514.

Dated: March 6, 2007.

M.C. Holley,

Lieutenant Commander, Judge Advocate Generals Corps, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. E7–4639 Filed 3–13–07; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 14, 2007.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: March 8, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Federal Student Aid

Type of Review: Extension.

Title: Pell Grant, ACG, and National SMART Reporting under the Common Origination and Disbursement (COD) System.

Frequency: As Needed.

Affected Public: Not-for-profit institutions; Businesses or other for-profit; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 5,655,000.

Burden Hours: 494,950.

Abstract: The Federal Pell Grant, ACG, and National SMART Programs are student financial assistance programs authorized under the Higher Education Act of 1965 (HEA), as amended. These programs provide grant assistance to an eligible student attending an institution of higher education. The institution determines the student's award and disburses program funds to the student on behalf of the Department (ED). To account for the funds disbursed, institutions report student payment information to ED electronically. COD is a simplified process for requesting, reporting, and reconciling Pell Grant, ACG, and National SMART funds.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the "Browse Pending Collections" link and by clicking on link number 3290. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E7–4655 Filed 3–13–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Overview Information; Vocational Rehabilitation Services Projects for American Indians With Disabilities; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2007

Catalog of Federal Domestic Assistance (CFDA) Number: 84.250C.

Dates:

Applications Available: March 19, 2007.

Deadline for Transmittal of Applications: June 12, 2007.

Eligible Applicants: The governing bodies of Indian tribes (and consortia of those governing bodies) located on Federal and State reservations.

Estimated Available Funds: $3,416,000.

Estimated Median Amount and Range of Awards: The estimated median amount of an award is $413,000, which means that one-half of the awards will be over $413,000 and one-half of the awards will be under $413,000, with the majority of awards in the range of approximately $350,000 to $450,000.

Maximum Award: For applicants that are current grantees under the Vocational Rehabilitation Services Projects for American Indians With Disabilities program (they received funding in FY 2006), the maximum award amount for the first project year is the greater of (a) $375,000 or (b) an amount equal to 103.4 percent of the applicant's approved budget for their FY 2006 grant (an increase of 3.4 percent). For applicants that are not current grantees under the Vocational Rehabilitation Services Projects for American Indians with Disabilities program, the maximum award amount for the first project year is $360,000.

In addition, the Secretary may limit any proposed increases in funding for project years two through five to the annual estimated percentage change in the Consumer Price Index for all Urban Consumers (CPIU). The current estimated percentage increase in the CPIU over the prior year for project year two (FY 2008) is 1.3 percent and for project years three through five (FY 2009–FY 2011) is approximately 2.5 percent.

Estimated Number of Awards: 8.

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 vocational rehabilitation services to American Indians with disabilities who reside on or near Federal or State reservations, consistent with their individual strengths, resources, priorities, concerns, abilities, capabilities, and informed choices, so that they may prepare for and engage in gainful employment, including self-employment, telecommuting, or business ownership.

Priority: In accordance with 34 CFR 75.105(b)(2)(iv), this priority is from section 121(b)(4) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 741).

Competitive Preference Priority: For FY 2007 this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i) we award up to an

additional 10 points to an application, depending on how well the application meets this priority.

This priority is:

Continuation of Previously Funded Tribal Programs

In making new awards under this program, we give priority consideration to applications for the continuation of tribal programs that have been funded under this program.

Program Authority: 29 U.S.C. 741.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 80, 81, 82, 84, 85, and 97. (b) The regulations in 34 CFR parts 369 and 371.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $3,416,000.

Estimated Median Amount and Range of Awards: The estimated median amount of an award is $413,000, which means that one-half of the awards will be over $413,000 and one-half of the awards will be under $413,000, with the majority of awards in the range of approximately $350,000 to $450,000.

Maximum Award: For applications that are current grantees under the Vocational Rehabilitation Services Projects for American Indians With Disabilities program (they received funding in FY 2006), the maximum award amount for the first project year is the greater of (a) $375,000 or (b) an amount equal to 103.4 percent of the applicant's approved budget for their FY 2006 grant (an increase of 3.4 percent). For applicants that are not current grantees under the Vocational Rehabilitation Services Projects for American Indians with Disabilities program, the maximum award amount for the first project year is $360,000.

In addition, the Secretary may limit any proposed increases in funding for project years two through five to the annual estimated percentage change in the CPIU. The current estimated percentage increase in the CPIU over the prior year for project year two (FY 2008) is 1.3 percent and for project years three through five (FY 2009-FY 2011) is approximately 2.5 percent.

Estimated Number of Awards: 8.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* The governing bodies of Indian tribes (and consortia of those governing bodies) located on Federal and State reservations.

2. *Cost Sharing or Matching:* See 34 CFR 371.40.

IV. Application and Submission Information

1. *Address to Request Application Package:* Education Publications Center (ED Pubs), 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: *http://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 84.250C.

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 Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 5075, Potomac Center Plaza, Washington, DC 20202–2550. *Telephone:* (202) 245–7363. If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

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.

3. *Submission Dates and Times:*

Applications Available: March 19, 2007.

Deadline for Transmittal of Applications: June 12, 2007.

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.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under this competition may be submitted electronically or in paper format by mail or hand delivery.

a. *Electronic Submission of Applications.*

To comply with the President's Management Agenda, we are participating as a partner in the Governmentwide Grants.gov Apply site. The Vocational Rehabilitation Services Projects for American Indians With Disabilities, CFDA Number 84.250C, is included in this project. We request your participation in Grants.gov. For this program, this is a change from previous years.

If you choose to submit your application electronically, you must use the Governmentwide Grants.gov Apply site at *http://www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

You may access the electronic grant application for Vocational Rehabilitation Services Projects for American Indians With Disabilities at *http://www.Grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.250, not 84.250C).

Please note the following:

- Your participation in Grants.gov is voluntary.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted, and must be date and time stamped by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not consider your application if it is date and time stamped by the Grants.gov system later than 4:30 p.m., Washington, DC time, on the application deadline date. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the

Grants.gov system after 4:30 p.m., Washington, DC time, on the application deadline date.

• The amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the 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 steps in the Grants.gov registration process (see *http://www.grants.gov/applicants/get_registered.jsp*). These steps include (1) registering your organization, a multi-part process that includes registration with the Central Contractor Registry (CCR); (2) registering yourself as an Authorized Organization Representative (AOR); and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see *http://www.grants.gov/section910/GrantsgovRegistrationBrochure.pdf*). You also must provide on your application the same D-U-N-S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to submit successfully an application via Grants.gov. In addition you will need to update your CCR registration on an annual basis. This may take three or more business days to complete.

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you submit your application in paper format.

• If you submit your application electronically, you must submit all documents electronically, including all information you typically provide on the following forms: Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. Please note that two of these forms—the SF 424 and the Department of Education Supplemental Information for SF 424—have replaced the ED 424 (Application for Federal Education Assistance).

• If you submit your application electronically, you must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password-protected file, we will not review that material.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by e-mail. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions as described elsewhere in this notice.

If you submit an application after 4:30 p.m., Washington, DC time, on the application deadline date, please contact the person listed 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. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

b. *Submission of Paper Applications by Mail.*

If you submit your application in paper format by mail (through the U.S. Postal Service or a commercial carrier), you must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service: U.S. Department of Education, Application Control Center, *Attention:* (CFDA Number 84.250C), 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 84.250C), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you submit your application in paper format by hand delivery, you (or a courier service) must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, *Attention:* (CFDA Number 84.250C), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

Selection Criteria: The selection criteria for this program are from 34 CFR 75.210 of EDGAR and are in the application package. The selection criteria may total 100 points, plus the 10 competitive preference priority points (see section I. *Competitive Preference Priority*).

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.

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has established two performance measures for the Vocational Rehabilitation Services Projects for American Indians with Disabilities program. The measures are the percentage of individuals who leave the program with an employment outcome and the cost per employment outcome. Each grantee must annually report its performance on these measures through the Annual Progress Reporting Form for the American Indian Vocational Rehabilitation Services (AIVRS) Program.

In addition, this program is part of the Administration's job training and employment common measures initiative. The common measures for job training and employment programs targeting adults are—entered employment (percentage employed in the first quarter after program exit); retention in employment (percentage of those employed in the first quarter after exit that were still employed in the second and third quarter after program exit); earnings increase (percentage change in earnings pre-registration to post-program and first quarter after exit to third quarter after exit); and efficiency measure (annual cost per employment outcome). The Department is currently working toward implementation of these common measures. Each grantee will be required to collect and report data for the common measures when implemented.

VII. Agency Contact

For Further Information Contact: Alfreda Reeves, U.S. Department of Education, 400 Maryland Avenue, SW., room 5051, Potomac Center Plaza, Washington, DC 20204–2800. *Telephone:* (202) 245–7485.

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 by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 5075, Potomac Center Plaza, Washington, DC 20202–2550. *Telephone:* (202) 245–7363.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: March 9, 2007.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. E7–4676 Filed 3–13–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Tuesday, April 10, 2007. 2 p.m.–8:30 p.m.

ADDRESSES: Jemez Complex, Santa Fe Community College, 6401 Richards Avenue, Santa Fe, New Mexico.

FOR FURTHER INFORMATION CONTACT: Menice Santistevan, Northern New Mexico Citizens' Advisory Board, 1660 Old Pecos Trail, Suite B, Santa Fe, NM 87505. Phone (505) 995–0393; Fax (505) 989–1752 or *E-mail: msantistevan@doeal.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental

restoration, waste management, and related activities.

Tentative Agenda:

2 p.m.
Call to Order by Deputy Designated Federal Officer (DDFO), Christina Houston
Establishment of a Quorum
Welcome and Introductions by Chair, J. D. Campbell
Approval of Agenda

2:30 p.m.
Board Business/Reports
Old Business, Chair, J. D. Campbell
Report from Chair, J. D. Campbell
Report from Department of Energy (DOE)
Report from Executive Director, Menice Santistevan
Other Matters, Board Members
New Business

3 p.m.
Break

3:15 p.m.
Committee Business/Reports:
A. Environmental Monitoring, Surveillance and Remediation Committee, Pam Henline
B. Waste Management Committee, J. D. Campbell, Interim Chair
C. Ad Hoc Committee on Bylaws, Presentation of Proposed Amendments for Final Action, J. D. Campbell, Interim Chair
D. Report from Ad Hoc Committee on Annual Retreat, J. D. Campbell
E. Facilitated Discussion on Technical vs. Non-Technical Work of the Citizens' Advisory Board Meeting, Grace Perez/Pam Henline

4:15 p.m.
Reports from Liaison Members:
U.S. Environmental Protection Agency (EPA), Rich Mayer,
DOE, George Rael,
Los Alamos National Security (LANS), Andy Phelps
New Mexico Environment Department (NMED), James Bearzi

5 p.m.
Dinner Break

6 p.m.
Public Comment

6:15 p.m.
Consideration and Action on Recommendations to DOE

7 p.m.
Presentation on Environmental Management at Los Alamos National Laboratory

8 p.m.
Round Robin on Board Meeting and Presentations, Board Members

8:15 p.m.
Recap of Meeting: Issuance of Press Releases, Editorials, etc., J. D. Campbell

8:30 p.m.
Adjourn, Christina Houston

This agenda is subject to change at least one day in advance of the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Santistevan at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: Minutes of this meeting will be available for public review and copying at the U.S. Department of Energy's Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 1660 Old Pecos Trail, Suite B, Santa Fe, NM. Hours of operation for the Public Reading Room are 9 a.m.–4 p.m. on Monday through Friday. Minutes will also be made available by writing or calling Menice Santistevan at the Board's office address or telephone number listed above. Minutes and other Board documents are on the Internet at: *http://www.nnmcab.org.*

Issued at Washington, DC on March 8, 2007.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. E7–4641 Filed 3–13–07; 8:45 am]

BILLING CODE 6405–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER07–121–001]

Allegheny Energy, Inc., Monongahela Power Company, Allegheny Energy Supply Company, LLC; Notice of Filing

March 8, 2007.

Take notice that on March 5, 2007, Allegheny Energy, Inc., Monongahela Power Company, and Allegheny Energy Supply Company, LLC filed a response to the Commission's December 20, 2006 data request.

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 March 26, 2007.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–4624 Filed 3–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TS07–2–000]

Clear Creek Storage Company, L.L.C.; Notice of Request for Partial Exemption From the Standards of Conduct

March 8, 2007.

Take notice that on February 21, 2007, Clear Creek Storage Company, L.L.C., pursuant to section 358.1(d) of the Commission's regulations, filed a

request for a partial exemption from the Standards of Conduct issued by the Commission in Order No. 690 for natural gas pipelines.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 23, 2007.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–4627 Filed 3–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL07–41–000]

Commonwealth Edison Company, Commonwealth Edison Company Of Indiana, Inc.; Notice of Filing

March 8, 2007.

Take notice that on March 1, 2007, Commonwealth Edison Company (ComEd) on behalf of itself and it wholly-owned subsidiary Commonwealth Edison Company of Indiana, Inc., filed a petition of declaratory order requesting the Commission to approve specific incentive rate treatments for recent major transmission projects that ComEd has undertaken pursuant to the PJM Interconnection, L.L.C.'s Regional Transmission Expansion Plan.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on April 2, 2007.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–4622 Filed 3–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL07–42–000]

Constellation Energy Commodities Group, Inc.; Notice of Filing

March 8, 2007.

Take notice that on March 1, 2007, Constellation Energy Commodities Group, Inc. (Constellation) filed a petition for declaratory order in which it requests that the Commission issue an order finding that the Settlement in *Devon Power LLC*, 115 FERC ¶ 61,340 (2006) does not modify or abrogate Constellation's Commission-jurisdictional wholesale power purchase agreements with Narragansett Electric Company (Narragansett).

Constellation states that copies of this filing have been served on Narragansett.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on April 2, 2007.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–4623 Filed 3–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID–5191–000]

Owen, Paul E.; Notice of Filing

March 8, 2007.

Take notice that on March 2, 2007, Paul E. Owen filed an application for authority to hold interlocking positions as Director of Old Dominion Electric Cooperative and TEC Trading, Inc., pursuant to Section 305(b) of the Federal Power Act (16 U.S.C. 825d(b)), 18 CFR 45.8 of the Commission's Rules and Regulations, 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. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on April 2, 2007.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–4625 Filed 3–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TS07–1–000]

Rendezvous Pipeline Company, L.L.C.; Notice of Request for Partial Exemption From the Standards of Conduct

March 8, 2007.

Take notice that on February 21, 2007, Rendezvous Pipeline Company, L.L.C. pursuant to section 358.1 of the Commission's regulations, filed a request for a partial exemption from the Standards of Conduct issued by the Commission in Order No. 690 for the natural gas pipelines.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC. 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 23, 2007.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–4626 Filed 3–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TS07–3–000]

Southern California Edison Company; Notice of Request for Partial Exemption From the Standards of Conduct

March 8, 2007.

Take notice that on February 26, 2007, Southern California Edison Company pursuant to section 358.1(d) of the Commission's regulations, filed a request for an exemption from the limitation to "non-affiliated" customers from the Standards of Conduct issued by the Commission.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC

Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 28, 2007.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–4628 Filed 3–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No.: CP07–90–000, CP07–91–000, CP07–92–000]

Tres Palacios Gas Storage LLC; Notice of Application

March 8, 2007.

Take notice that on February 23, 2007, Tres Palacios Gas Storage LLC (Tres Palacios), 61 Wilton Road, Westport, CT 06880, filed in the above dockets, an application pursuant to section 7 of the Natural Gas Act (NGA) for (1) A certificate of public convenience and necessity to construct, own, operate and maintain a high-deliverability salt cavern gas storage facility in Matagorda County, Texas, that will accommodate the injection, storage and subsequent withdrawal of natural gas for redelivery in interstate commerce; (2) a blanket certificate pursuant to Subpart G of 18 CFR Part 284 to provide open-access firm and interruptible natural gas storage services on behalf of others in interstate commerce; (3) a blanket certificate pursuant to Subpart F of 18 CFR Part 157 to construct, acquire, operate, rearrange and abandon certain facilities following construction of the proposed project; (4) authorization to provide the proposed storage services at market-based rates; and (5) approval of a *pro forma* FERC Gas Tariff, under which Tres Palacios will provide open access natural gas storage services in interstate commerce. This filing is available for review at the Commission in the Public Reference Room or may 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, call (866) 208–3676 or TTY, (202) 502–8659.

Any questions concerning this application may be directed to James F. Bowe, Jr., Dewey Ballantine LLP, 975 F Street, NW., Washington, DC 20004–1405, 202–862–1000 (phone)/202–862–1093 (fax), *jbowe@deweyballantine.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, before the comment date of this notice, 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.

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.

Pursuant to Section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Comment Date: March 29, 2007.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–4621 Filed 3–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

March 8, 2007.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG07–41–000.

Applicants: Navasota Odessa Energy Partners LP.

Description: Navasota Odessa Energy Partners LP submits this notice of self-certification of its status as an exempt wholesale generator pursuant to the PUHCA of 2005.

Filed Date: 03/06/2007.

Accession Number: 20070308–0061.

Comment Date: 5 p.m Eastern Time on Tuesday, March 27, 2007.

Docket Numbers: EG07–42–000.

Applicants: Navasota Wharton Energy Partners LP.

Description: Navasota Wharton Energy Partners, LP submits notice of self-certification of its status as an exempt wholesale generator.

Filed Date: 03/06/2007.

Accession Number: 20070308–0057.

Comment Date: 5 p.m Eastern Time on Tuesday, March 27, 2007.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER99–2342–011.

Applicants: Tampa Electric Company.

Description: Tampa Electric Company submits a change in status with respect to its market-based rate authority.

Filed Date: 03/05/2007.

Accession Number: 20070307–0090.

Comment Date: 5 p.m Eastern Time on Monday, March 26, 2007.

Docket Numbers: ER01–2742–005.

Applicants: Rock River I, L.L.C.

Description: Rock River I, LLC submits their triennial updated market analysis.

Filed Date: 03/06/2007.

Accession Number: 20070308–0059.

Comment Date: 5 p.m Eastern Time on Tuesday, March 27, 2007.

Docket Numbers: ER03–736–006.
Applicants: CAM Energy Products, L.P.
Description: CAM Energy Products LP submits its triennial updated market power analysis.
Filed Date: 03/06/2007.
Accession Number: 20070308–0060.
Comment Date: 5 p.m Eastern Time on Tuesday, March 27, 2007.

Docket Numbers: ER03–1159–003.
Applicants: Hershey Chocolate and Confectionary Corporation.
Description: Chocolate and Confectionary Corporation submits its second revised Market Based Electric Rate Tariff.
Filed Date: 03/07/2007.
Accession Number: 20070308–0058.
Comment Date: 5 p.m Eastern Time on Wednesday, March 28, 2007.

Docket Numbers: ER03–1165–002.
Applicants: Energy Cooperative Association of Pennsylvania.
Description: Energy Cooperative Association of Pennsylvania submits an amended version of Petition for Acceptance of Updated Tariff and Blanket Authority.
Filed Date: 03/02/2007.
Accession Number: 20070308–0008.
Comment Date: 5 p.m Eastern Time on Monday, March 12, 2007.

Docket Numbers: ER04–1181–001; ER04–1182–001; ER04–1184–001; ER04–1186–001.
Applicants: KGen Hinds LLC; KGen Hot Spring LLC; KGen Murray I and II LLC; KGen Sandersville LLC.
Description: KGen Project Companies submit their Triennial Updated Market Analysis and Notice of Non-Material Change in Status.
Filed Date: 03/05/2007.
Accession Number: 20070308–0064.
Comment Date: 5 p.m Eastern Time on Monday, March 26, 2007.

Docket Numbers: ER05–6–095.
Applicants: Dayton Power and Light Company.
Description: The Dayton Power and Light Company submits a Electric Refund Report.
Filed Date: 03/07/2007.
Accession Number: 20070307–5015.
Comment Date: 5 p.m Eastern Time on Wednesday, March 28, 2007.

Docket Numbers: ER07–319–001.
Applicants: Southwest Power Pool.
Description: Southwest Power Pool, Inc submits revisions to Open Access Transmission Tariff pursuant to the Commission's order issued on 1/31/07.
Filed Date: 03/02/2007.
Accession Number: 20070306–0202.
Comment Date: 5 p.m Eastern Time on Friday, March 23, 2007.

Docket Numbers: ER07–335–001.
Applicants: E.ON U.S., LLC.
Description: E.ON U.S. LLC on behalf of Louisville Gas and Electric Company et al submit a revised unexecuted Service Agreement for Network Integration Transmission Service.
Filed Date: 03/05/2007.
Accession Number: 20070307–0086.
Comment Date: 5 p.m Eastern Time on Monday, March 26, 2007.

Docket Numbers: ER07–336–001.
Applicants: San Diego Gas & Electric Company.
Description: San Diego Gas & Electric Co submits a compliance Filing in Response to the Commission's 2/16/07 Order.
Filed Date: 03/05/2007.
Accession Number: 20070305–5015.
Comment Date: 5 p.m Eastern Time on Monday, March 26, 2007.

Docket Numbers: ER07–431–001.
Applicants: Southern Company Services, Inc.
Description: Southern Company Services, Inc agent for Alabama Power Company et al submit the Rollover Network Integrated Transmission Service Agreements.
Filed Date: 03/05/2007.
Accession Number: 20070307–0087.
Comment Date: 5 p.m Eastern Time on Monday, March 26, 2007.

Docket Numbers: ER07–442–001.
Applicants: Southern Company Services, Inc.
Description: Alabama Power Co & Georgia Power Co et al submits a Rollover Network Integrated Transmission Service Agreement with the City of Hampton.
Filed Date: 03/05/2007.
Accession Number: 20070307–0073.
Comment Date: 5 p.m Eastern Time on Monday, March 26, 2007.

Docket Numbers: ER07–579–001.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc submits executed signature pages of the amended and restated Generator Interconnection Agreement.
Filed Date: 03/06/2007.
Accession Number: 20070308–0056.
Comment Date: 5 p.m Eastern Time on Tuesday, March 27, 2007.

Docket Numbers: ER07–586–000.
Applicants: Orange and Rockland Utilities, Inc.
Description: Orange and Rockland, Inc submits an amendment to its Open Access Transmission Tariff, FERC Electric Tariff, Original Volume 3.
Filed Date: 03/01/2007.
Accession Number: 20070307–0172.
Comment Date: 5 p.m Eastern Time on Thursday, March 22, 2007.

Docket Numbers: ER07–594–000.
Applicants: Pirin Solutions, Inc.
Description: Pirin Solutions, Inc submits a petition for acceptance of initial tariff, waivers and blanket authority pursuant to Section 205 of the Federal Power Act.
Filed Date: 02/27/2007.
Accession Number: 20070306–0216.
Comment Date: 5 p.m Eastern Time on Tuesday, March 20, 2007.

Docket Numbers: ER07–596–000.
Applicants: E.ON U.S., LLC.
Description: E.ON US, LLC on behalf of its Louisville Gas and Electric Company et al submits proposed revisions to LG&E and KU's joint Open Access Transmission Tariff.
Filed Date: 03/05/2007.
Accession Number: 20070307–0085.
Comment Date: 5 p.m Eastern Time on Monday, March 26, 2007.

Docket Numbers: ER07–597–000.
Applicants: Montana Generation, LLC.
Description: Montana Generation, LLC submits a notice of succession.
Filed Date: 03/06/2007.
Accession Number: 20070307–0091.
Comment Date: 5 p.m Eastern Time on Tuesday, March 27, 2007.

Docket Numbers: ER07–599–000.
Applicants: Reliant Energy Electric Solutions, LLC.
Description: Reliant Energy Electric Solutions, LLC submits FERC Electric Tariff, Original Volume 2.
Filed Date: 03/06/2007.
Accession Number: 20070308–0065.
Comment Date: 5 p.m Eastern Time on Tuesday, March 27, 2007.

Docket Numbers: ER07–600–000.
Applicants: Public Service Company of New Mexico.
Description: Public Service Company of New Mexico submits notices of termination and cancellation of certain PNM Service Agreements.
Filed Date: 03/07/2007.
Accession Number: 20070308–0066.
Comment Date: 5 p.m Eastern Time on Wednesday, March 28, 2007.

Docket Numbers: ER07–601–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company submits a rate sheet for Interconnection Facilities Agreement with the Nuevo Energy Company and a notice of cancellation.
Filed Date: 03/07/2007.
Accession Number: 20070308–0067.
Comment Date: 5 p.m Eastern Time on Wednesday, March 28, 2007.

Docket Numbers: ER07–602–000.
Applicants: PJM Interconnection L.L.C.

Description: PJM Interconnection, LLC submits revisions to Schedule 2 of the PJM Open Access Transmission Tariff.

Filed Date: 03/05/2007.

Accession Number: 20070308–0068.

Comment Date: 5 p.m Eastern Time on Monday, March 26, 2007.

Docket Numbers: ER07–603–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Inc submits a partially executed service agreements for Market Participants selling into its real-time energy imbalance service markets with Golden Spread Electric Cooperative Inc.

Filed Date: 03/05/2007.

Accession Number: 20070308–0075.

Comment Date: 5 p.m Eastern Time on Monday, March 26, 2007.

Take notice that the Commission received the following foreign utility company status filings:

Docket Numbers: FC07–12–000.

Applicants: Hidroelectrica EL Chocon SA.

Description: HIDROELECTRICA EL CHOCON S.A. submits a Notice of Self-Certification of Foreign Utility Status.

Filed Date: 03/02/2007.

Accession Number: 20070302–5012.

Comment Date: 5 p.m Eastern Time on Friday, March 23, 2007.

Docket Numbers: FC07–13–000.

Applicants: Centrales Termicas Mendoza S.A.

Description: Notice of Self-Certification of Foreign Utility Company Status of Centrales Termicas Mendoza S.A.

Filed Date: 03/02/2007.

Accession Number: 20070302–5021.

Comment Date: 5 p.m Eastern Time on Friday, March 23, 2007.

Docket Numbers: FC07–14–000.

Applicants: Centrales Termicas San Nicolas, S.A.

Description: Notice of Self-Certification of Foreign Utility Co. Status of Centrales Termicas San Nicolas, S.A.

Filed Date: 03/02/2007.

Accession Number: 20070302–4012.

Comment Date: 5 p.m Eastern Time on Friday, March 23, 2007.

Docket Numbers: FC07–16–000.

Applicants: CMS ENSENADA SA.

Description: Notice of Self-Certification of Foreign Utility Company Status of CMS ENSENADA S.A.

Filed Date: 03/02/2007.

Accession Number: 20070302–5014.

Comment Date: 5 p.m. Eastern Time on Friday, March 23, 2007.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed 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.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–4629 Filed 3–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD07–3–006]

Review of Cost Submittals by Other Federal Agencies for Administering Part I of the Federal Power Act; Notice of Technical Conference

March 8, 2007.

In its Order On Rehearing Consolidating Administrative Annual Charges Bill Appeals And Modifying Annual Charges Billing Procedures (109 FERC ¶ 61,040), the Commission set forth an annual deadline for Other Federal Agencies (OFAs) to submit their costs related to Administering Part I of the Federal Power Act. The Commission required the OFAs to submit their costs by December 31st of each fiscal year using the OFA Cost Submission Form. The order also announced that a technical conference would be held for the purpose of reviewing the submitted cost forms and detailed supporting documentation.

At the request of several agencies, the Commission extended the December 31, 2006, deadline to allow agencies to improve their costs submissions. With all cost reports received, the Commission now proceeds with the review process.

The Commission will hold a technical conference for reviewing the submitted OFA costs. The purpose of the conference will be for OFAs and licensees to discuss costs reported in the forms and any other supporting documentation or analyses.

The Conference will be held on March 29, 2007, in Conference Room 3M–2A/B at the Commission's headquarters at 888 First Street, NE., Washington, DC. The conference will begin at 2 p.m. (EST).

The technical conference will also be transcribed. Those interested in obtaining a copy of the transcript immediately for a fee should contact the Ace-Federal Reporters, Inc., at 202–347–3700, or 1–800–336–6646. Two weeks after the post-forum meeting, the transcript will be available for free on the Commission's e-library system. Anyone without access to the Commission's Web site or who has questions about the technical conference should contact Troy Cole at (202) 502–6161 or via e-mail at *troy.cole@ferc.gov*.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free

(866) 208–3372 (voice), (202) 208–8659 (TTY), or send a Fax to 202–208–2106 with the required accommodations.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–4620 Filed 3–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting; Notice

March 8, 2007.

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C 552b:

Agency Holding Meeting: Federal Energy Regulatory Commission.

Date And Time: March 15, 2007, 10 a.m.

Place: Room 2C, 888 First Street, NE., Washington, DC 20426.

Status: Open.

Matters To Be Considered: Agenda.

Note: Items listed on the agenda may be deleted without further notice.

Contact Person For More Information: Philis J. Posey, Acting Secretary, Telephone (202) 502–8400.

For a recorded message listing items struck from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all documents relevant to the items on the agenda. All public documents, however, may be viewed on line at the Commission's Web site at *http://www.ferc.gov* using the eLibrary link, or may be examined in the Commission's Public Reference Room.

916TH—MEETING, REGULAR MEETING

[March 15, 2007, 10 a.m.]

Item No.	Docket No.	Company
	ADMINISTRATIVE	
A–1	AD02–1–000	Agency Administrative Matters.
A–2	AD02–7–000	Customer Matters, Reliability, Security and Market Operations.
A–3	AD06–3–000	Energy Market Update.
	ELECTRIC	
E–1	ER04–691–079	Midwest Independent Transmission System Operator, Inc.
	ER04–691–081	
E–2	ER06–18–004	Midwest Independent Transmission System Operator, Inc.
	ER06–18–005	
E–3	ER06–18–006	Midwest Independent Transmission System Operator, Inc.
E–4	ER04–691–078	Midwest Independent Transmission System Operator, Inc.
E–5	EL06–87–000	Cottonwood Energy Company, LP.
E–6	TX07–1–000	Brazos Electric Power Cooperative, Inc.
E–7	ER05–115–001	Duke Energy Oakland, LLC.
E–8	ER06–185–003	New York Independent System Operator, Inc.
	ER06–185–004	
	ER06–185–006	
E–9	OMITTED.	
E–10	TX06–3–000	City of Tacoma, Washington and City of Seattle, Washington v. South Columbia Basin Irrigation District East Columbia Basin Irrigation District Quincy Columbia Basin Irrigation District Grand Coulee Project Hydroelectric Authority.
	P–2849–015	South Columbia Basin Irrigation District, East.
	P–3295–012	Columbia Basin Irrigation District, Quincy Columbia Basin Irrigation District and Grand Coulee Project Hydroelectric Authority.
	DI07–3–000	City of Tacoma, Washington and City of Seattle, Washington.
	DI07–4–000	
E–11	OMITTED.	
E–12	RM07–11–000	Applicability of Federal Power Act Section 215 to Qualifying Small Power Production and Cogeneration Facilities.
E–13	RM06–16–000	Mandatory Reliability Standards for the Bulk-Power System.
E–14	EL07–18–000	New York Independent System Operator, Inc. v. Astoria Energy LLC.
E–15	RM00–7–012	Revision to Annual Charges to Public Utilities (Westar Energy, Inc. and Kansas Gas & Electric Company).
E–16	TX06–2–000	Aero Energy, LLC.
	TX06–2–002	
	TX06–2–003	
	TX06–2–004	
E–17	ER05–522–001	Bluegrass Generation Company, L.L.C.
E–18	EL05–150–001	Richard Blumenthal, Attorney General for the State of Connecticut, the Connecticut Office of Consumer Counsel, the Connecticut Municipal Electric Energy Cooperative and the Connecticut Industrial Energy Consumers v. ISO New England, Inc.
E–19	ER06–1382–001	Bluegrass Generation Company, L.L.C.
	GAS	
G–1	RP06–231–002	Norstar Operating, LLC v. Columbia Gas Transmission Corporation.

916TH—MEETING, REGULAR MEETING—Continued

[March 15, 2007, 10 a.m.]

Item No.	Docket No.	Company
	RP06–365–000	Columbia Gas Transmission Corporation.
G–2	PR07–1–000	Peoples Gas Light and Coke Company.
G–3	RP01–503–006	Natural Gas Pipeline Company of America.
G–4	OMITTED.	
G–5	RP07–172–000	Columbia Gulf Transmission Company.
	HYDRO	
H–1	P–2216–066	New York Power Authority.
H–2	P–2438–062	Seneca Falls Power Corporation.
	P–11120–035	Commonwealth Power Company.
	P–11300–029	
	P–11516–031	
	P–11150–023	Cameron Gas and Electric Company.
	P–2239–039	Tomahawk Power and Pulp Company.
H–3	P–2539–031	Erie Boulevard Hydropower, L.P.
	CERTIFICATES	
C–1	OMITTED.	
C–2	CP05–383–000	Algonquin Gas Transmission, LLC.
C–3	CP07–75–000	Sonora Pipeline, LLC.
C–4	CP06–488–000	Natural Gas Pipeline Company of America.
	CP06–499–000	Kinder Morgan Louisiana Pipeline LLC.
	CP06–450–000	
	CP06–451–000	
C–5	OMITTED.	
C–6	CP05–150–002	Hardy Storage Company, LLC.

Philis J. Posey,

Acting Secretary.

A free webcast of this event is available through *http://www.ferc.gov*. Anyone with Internet access who desires to view this event can do so by navigating to www.ferc.gov's Calendar of Events and locating this event in the Calendar. The event will contain a link to its webcast. The Capitol Connection provides technical support for the free webcasts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit *http://www.CapitolConnection.org* or contact Danelle Perkowski or David Reininger at 703–993–3100.

Immediately following the conclusion of the Commission Meeting, a press briefing will be held in the Commission Meeting Room. Members of the public may view this briefing in the designated overflow room. This statement is intended to notify the public that the press briefings that follow Commission meetings may now be viewed remotely at Commission headquarters, but will not be telecast through the Capitol Connection service.

[FR Doc. E7–4595 Filed 3–13–07; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0860; FRL–8115–3]

Agency Information Collection Activities; Proposed Collection; Comment Request; Plant-Incorporated Protectants; CBI Substantiation and Adverse Effects Reporting; EPA ICR No. 1693.05, OMB Control No. 2070–0142

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR, entitled: "Plant-Incorporated Protectants; CBI Substantiation and Adverse Effects Reporting" and identified by EPA ICR No. 1693.05 and OMB Control No. 2070–0142, is scheduled to expire on October 31, 2007. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection.

DATES: Comments must be received on or before May 14, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0860, by one of the following methods:

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0860. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information

whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select "Advanced Search," then "Docket Search." Insert the docket ID number where indicated and select the "Submit" button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Joseph Hogue, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-9072; fax number: (703) 305-5884; e-mail address: *hogue.joe@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. What Information Is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

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

2. Evaluate the accuracy of the Agency's estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the collection activity.

7. Make sure to submit your comments by the deadline identified under **DATES**.

8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

III. What Information Collection Activity or ICR Does This Action Apply to?

Affected entities: Entities potentially affected by this action are producers and importers of plant-incorporated protectants. These entities may be classified under the following North American Industrial Classification System (NAICS) codes:

- Pesticides and other agricultural chemical manufacturing (NAICS code 32532).
- Research and development in the physical, engineering, and life sciences (NAICS code 54171).
- Biological products (except diagnostic) manufacturing (NAICS code 325414).
- Colleges, universities, and professional schools (NAICS code 611310).
- Farm supplies wholesalers (NAICS code 422910).
- Flower, nursery stock, and florists' supplies (wholesalers) (NAICS code 422930).

Title: Plant-Incorporated Protectants; CBI Substantiation and Adverse Effects Reporting.

ICR numbers: EPA ICR No. 1693.05, OMB Control No. 2070-0142.

ICR status: This ICR is currently scheduled to expire on October 31, 2007. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This ICR covers the two information collection related provisions contained in a final rule, which the Agency promulgated on July 19, 2001 (66 FR 37771), that addresses the regulatory status of pesticidal substances that are produced by plants (plant-incorporated protectants). A plant-incorporated protectant is defined in the final rule as "the pesticidal substance that is intended to be produced and used in a living plant and the genetic material necessary for the production of such a substance." The final rule accomplishes two things: It exempts many, but not all, plant-incorporated protectants from registration requirements under the

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and it imposes two new requirements on manufacturers of some plant-incorporated protectants.

Registrants sometimes include in a submission to EPA for registration of a plant-incorporated protectant, information that they claim to be CBI. CBI is protected by FIFRA and cannot be released to the public. One provision of the final rule requires registrants that make CBI claims to substantiate such claims when they are made, rather than provide it later upon request by EPA. Submission of this information is required in order to obtain the benefit of prompt registration of a plant-incorporated protectant. Early substantiation of CBI claims will enable the Agency to promptly release information supporting plant-incorporated protectants registration decisions, without delaying registrations.

The other information collection provision of the final rule requires manufacturers of plant-incorporated protectants exempted from the requirements of registration to report adverse effects of the plant-incorporated protectant to the Agency. Such reporting will allow the Agency to determine whether further action is needed to prevent unreasonable adverse effects to the environment. Submission of this information is mandatory.

This ICR, therefore, discusses the paperwork burdens associated with the requirement for registrants to substantiate CBI claims when they are made, and the requirement for manufacturers of plant-incorporated protectants exempted from registration requirements under the final rule to report adverse effects to the Agency within 30 days.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 7 hours for an adverse effects report and 21.5 hours for substantiation of a CBI claim, per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized here:

Estimated total number of potential respondents: The total number of respondents is estimated to be 14 per year for substantiation of a CBI claim, and only one response for an adverse effects report over the three year period for this ICR renewal.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: One.

Estimated total annual burden hours: 303 hours.

Estimated total annual costs: $30,853. This is an estimated burden cost of $30,853 with no additional cost for capital investment or maintenance and operational costs.

IV. Are There Changes in the Estimates From the Last Approval?

There is no change in the total estimated respondent burden (303 hours) compared with that identified in the ICR currently approved by OMB. In previous renewal cycles, the Agency only adjusted the labor rates to account for inflation. However, for this renewal, Agency economists have completely re-estimated labor rates, benefits, and overhead costs for both respondents and Agency personnel. This Agency analysis completed in July 2006 resulted in a decrease in estimated labor rates for industry. The new analysis also resulted in management and technical estimated Agency labor rates decreasing and clerical rates increasing. The Agency believes this is a more realistic estimate of the average respondent and Agency costs. Therefore, estimated total annual respondent costs have decreased by $6,693, from $27,572 to $20,879, and annual Agency labor costs have increased by $111, from $9,863 to $9,974. This change is an adjustment.

V. What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: March 6, 2007.

James B. Gulliford,

Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E7–4529 Filed 3–13–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2007–0014; FRL–8287–3]

Agency Information Collection Activities; Proposed Collection; Comment Response; National Refrigerant Recycling and Emission Reduction Program; EPA ICR No. 1626.10, OMB Control No. 2060–0256

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on July 31, 2007. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before May 14, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2007–0014.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2007–0014. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail

comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automaticaliy captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Julius Banks; Stratospheric Protection Division, Office of Air and Radiation, Office of Atmospheric Programs; Mail Code 6205J; Environmental Protection Agency; 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 343–9870; fax number: (202) 343–2338; e-mail address: *banks.julius@epa.gov.*

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2007–0014, which is available for online viewing at *www.regulations.gov*, or in person viewing at the Office of Air and Radiation Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Office of Air and Radiation Docket and Information Center Docket is 202–566–1742.

Use *www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified in this document.

What Information Is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

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

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under **DATES**.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What Information Collection Activity or ICR Does This Apply to?

Docket ID No. EPA–HQ–OAR–2007–0014.

Affected entities: Entities potentially affected by this action are those that recover, recycle, reclaim, sell, or distribute in interstate commerce ozone-depleting refrigerants that contain chlorofluorocarbons (CFCs) or hydrochlorofluorocarbons (HCFCs); and those that service, maintain, repair, or dispose of appliances containing CFC or HCFC refrigerants. In addition, the owners or operators of appliances containing more than 50 pounds of CFC or HCFC refrigerants are regulated.

ICR numbers: EPA ICR No. 1626.10, OMB Control No. 2060–0256.

ICR status: This ICR is currently scheduled to expire on July 31, 2007. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in Title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: EPA has developed regulations under the Clean Air Act Amendments of 1990 (the Act) establishing standards and requirements regarding the use and disposal of class I and class II ozone-depleting substances used as refrigerants during the service, maintain, repair, or disposal of refrigeration and air-conditioning equipment. Section 608(c) of the Act states that effective July 1, 1992 it is unlawful for any person in the course of maintaining, servicing, repairing, or disposing of refrigeration or air-conditioning equipment to knowingly vent or otherwise knowingly release or dispose of any class I or class II substance used as a refrigerant in the equipment in a manner which permits the substance to enter the environment.

During 1993, EPA promulgated regulations under section 608 of the Act for the recycling of ozone-depleting refrigerants recovered during the servicing and disposal of air-conditioning and refrigeration equipment. These regulations were published on May 14, 1993 (58 *FR* 28660) and codified in 40 CFR subpart F (§ 82.150 *et seq.*).

The regulations require persons servicing refrigeration and air-conditioning equipment to observe certain service practices that reduce emissions of ozone depleting refrigerants. The regulations also establish certification programs for technicians, recycling and recovery

equipment, and off-site refrigerant reclaimers. In addition, EPA requires that ozone depleting refrigerants contained "in bulk" in appliances be removed prior to disposal of the appliances and that all refrigeration and air-conditioning equipment, except for small appliances and room air conditioners, be provided with a servicing aperture that facilitates recovery of the refrigerant. Moreover, the Agency requires that substantial refrigerant leaks in equipment be repaired when they are discovered. These regulations significantly reduce emissions of ozone depleting refrigerants, and therefore aid U.S. and global efforts to minimize damage to the ozone layer and the environment as a whole.

To facilitate compliance with and enforcement of section 608 requirements, EPA requires reporting and record keeping requirements of technicians; technician certification programs; equipment testing organizations; refrigerant wholesalers and purchasers; refrigerant reclaimers; refrigeration and air-conditioning equipment owners; and other establishments that perform refrigerant removal, service, or disposal. The record keeping requirements and periodic submission of reports, to EPA's Office of Air and Radiation, Office of Atmospheric Programs, occur on an annual, biannual, onetime, or occasional basis depending on the nature of the reporting entity and the length of time that the entity has been in service. Specific reporting and record keeping requirements were published in 58 *FR* 28660 and codified under 40 CFR part 82, subpart F (i.e., § 82.166). These reporting and recordkeeping requirements also allow EPA to evaluate the effectiveness of the refrigerant regulations, and help the Agency determine if we are meeting the obligations of the Unites States', under the 1987 Montreal Protocol, to reduce use and emissions of ozone-depleting substances to the lowest achievable level.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.1 hours per respondent. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The annual public reporting and recordkeeping burden for this collection of information is estimated to average: 8 Hours for the 2 EPA-approved refrigerant recovery/recycling equipment testing organizations; 1,125 hours for an estimated 2,250 owners of refrigerant recovery/recycling equipment (including air-conditioning and refrigeration service establishments) that will change ownership or enter the market; 175 hours for an estimated 350 appliance disposal establishments that change ownership or enter the market; 937.5 hours for the maintenance of copies of signed statements by an estimated 7,500 disposal establishments; 14 hours for certification of an estimated 4 refrigerant reclaimers that change ownership or enter the market; 92 hours for refrigerant reclaimer annual reporting from an estimated 46 respondents; 230 hours for refrigerant reclaimer transactional recordkeeping from an estimated 46 respondents; 250,000 hours for an estimated 2,000,000 refrigerant wholesalers to maintain records of refrigerant sales transactions; 50 hours for an estimated 10 technician certification programs applying for first-time approval; 450 hours for an estimated 90 technician certification programs to maintain records; 45,000 hours for an estimated 30,000 technicians acquiring certification for the first time; 7,500 hours for an estimated 300,000 previously certified technicians to maintain their certification cards; 50,000 hours for an estimated 2,000,500 technicians servicing appliances with charge sizes greater than 50 pounds of refrigerant to provide service invoices to their customers; 50,000 hours for an estimated 2,000,500 owners/operators of appliances with charge sizes greater than 50 pounds of refrigerant to maintain service invoices; 25 hours for an estimated 50 owners of industrial process refrigeration equipment (appliances) who request a 30-day extension to the 30-day leak repair requirement or the retrofit requirement; 25 hours for an estimated 50 owners of industrial process refrigeration equipment (appliances) who requests an extension to the 1-year timeframe to implement retrofit/retirement plans; 0.25 hours for an estimated 2 owners of industrial process refrigeration appliances who maintain information on purged/destroyed refrigerant that they wish to exclude from their leak rate calculations; 250,000 hours for an estimated 50,000 owners/operators of appliances with refrigerant charges greater than 50 pounds to create and maintain a plan to retire/replace or retrofit comfort cooling, commercial refrigeration, and industrial process refrigeration appliances; 12,500 hours for an estimated 25,000 owners/operators of industrial process refrigeration appliances with refrigerant charge sizes greater than 50 pounds to maintain records on the results of initial and follow-up verification tests; 25,000 hours for an estimated 100,025 appliance owners/operators who choose to determine the appliance's full charge using a range of possible values.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 6,516,534.

Frequency of response: Reporting requirements under this rulemaking are primarily required on an annual basis, with the exception of technician testing organizations that are required to report biannually. The frequency of recordkeeping requirements under this rulemaking vary depending upon the actions of the respondent but are generally required on a transactional basis.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 693,319 hours.

Estimated total annual costs: $25,375,462. This includes an estimated burden cost of $25,375,462 and an estimated cost of $0 for capital investment costs.

Are There Changes in the Estimates From the Last Approval?

There is an increase of 274,335 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This increase is not due to a change in any program requirement. The adjustment is the result of changes in EPA's estimates of labor rates, time required to submit reports and maintain records, and the overall number of respondents.

What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

Dated: March 8, 2007.

Drusilla Hufford,

Director, Stratospheric Protection Division, Office of Atmospheric Program, Office of Air and Radiation.

[FR Doc. E7–4649 Filed 3–13–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0172; FRL–8118–5]

The Association of American Pesticide Control Officials (AAPCO)/State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committee on Pesticide Operations and Management (WC/POM); Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Association of American Pesticide Control Officials (AAPCO)/ State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committee on Pesticide Operations and Management (WC/POM) will hold a 2–day meeting, beginning on April 2, 2007 and ending April 3, 2007. This notice announces the location and times for the meeting and sets forth the tentative agenda topics.

DATES: The meeting will be held on April 2, 2007 from 8:30 a.m. to 5 p.m. and 8:30 a.m. to 12 noon on April 3, 2007.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATON CONTACT,** preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held at Marriott Boston Long Wharf, Boston, MA.

FOR FURTHER INFORMATION CONTACT: Georgia McDuffie, Field and External Affairs Division, (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 605-0195; fax: (703) 308-1850; e-mail address: *mcduffie.georgia@epa.gov* or Philip H. Gray, SFIREG Executive Secretary, P.O. Box 1249, Hardwick, VT 05843-1249; telephone number: (802) 472-6956; fax (802) 472-6957; e-mail address: *aapco@plainfield.bypass.com.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if all parties interested in SFIREG information exchange relationship with EPA regarding important issues related to human health, environmental exposure to pesticides, and insight into EPA's decision-making process are invited and encouraged to attend the meetings and participate as appropriate. "

Potentially affected entities may include, but are not limited to: those persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2007–0172. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr.*

II. Tentative Agenda

1. Update on NAFTA Labeling
2. Update on Label I.D. Project
3. New Issue Paper on Underground Chemigation
4. Use of "Recommended" Regarding Rate Section on Pesticide labels
5. Notice 2000-5
6. Revising Time Factors for Estimating Inspection Costs for Grant Purposes
7. Rodenticide RUP Status
8. Review expedited Section 18 Form and Guidance
9. Fund Raising Logos on Section 3 Labels
10. Residue Check Sample Program
11. Drift Language Recommendations from PPDC
12. Update on WPS and C and T Proposed Rule Change
13. PIRT Training and Potential for Recertification of Federal Credentials
14. Enforcement Issues with F and WS Regarding Sampling of Endangered Species
15. OECA PART Measures Data Review Committee
16. EPA Update/Briefing
    a. Office of Pesticide Programs Update
    b. Office of Enforcement Compliance Assurance Update
17. POM Working Committee Workgroups Issue Papers/Updates

List of Subjects

Environmental protection.

Dated: February 26, 2007.

William R. Diamond,

Director, Field External Affairs Division, Office of Pesticide Programs

[FR Doc. E7–4381 Filed 3–13–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0186; FRL–8118–7]

FIFRA Scientific Advisory Panel; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 3–day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel (FIFRA SAP) to consider and

review guidance on test methods for demonstrating the efficacy of antimicrobial products for inactivating *Bacillus anthracis* spores on environmental surfaces.

DATES: The meeting will be held on July 17-19, 2007, from 8:30 a.m. to 5 p.m., Eastern time.

Comments. The Agency encourages that written comments be submitted by July 3, 2007 and requests for oral comments be submitted by July 10, 2007. However, written comments and requests to make oral comments may be submitted until the date of the meeting. For additional instructions, see Unit I.C. of the **SUPPLEMENTARY INFORMATION**.

Nominations. Nominations of candidates to serve as ad hoc members of the FIFRA SAP for this meeting should be provided on or before March 26, 2007.

Special Accommodations. For information on access or services for individuals with disabilities, and to request accommodation of a disability, please contact the Designated Federal Official (DFO) listed under **FOR FURTHER INFORMATION CONTACT** at least 10 days prior to the meeting to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held at the Environmental Protection Agency Conference Center, Lobby Level, One Potomac Yard (South Bldg.), 2777 Crystal Dr., Arlington, VA 22202.

Comments. Submit your comments, identified by docket ID number EPA–HQ–OPP–2007–0186, by one of the following methods:

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

Instructions. Direct your comments to docket ID number EPA–HQ–OPP–2007–0186. If your comments contain any information that you consider to be CBI or otherwise protected, please contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** to obtain special instruction before submitting your comments. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket. All documents in the docket are listed in a docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select "Advanced Search," then "Docket Search." Insert the docket ID number where indicated and select the "Submit" button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. Although listed in a docket index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

Nominations, Requests to Present Oral Comments, and Requests for Special Accommodations. Submit nominations to serve as an ad hoc member of the FIFRA SAP, requests for special seating accommodations, or requests to present oral comments to the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Joseph E. Bailey, DFO, Office of Science Coordination and Policy (7201M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564-2045; fax number: (202) 564-8382; e-mail addresses: *bailey.joseph@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA), FIFRA, and the Food Quality Protection Act of 1996 (FQPA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

When submitting comments, remember to:

1. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).
2. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

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

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

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

C. How May I Participate in this Meeting?

You may participate in this meeting by following the instructions in this unit. To ensure proper receipt by EPA, it is imperative that you identify docket ID number EPA–HQ–OPP–2007–0186 in the subject line on the first page of your request.

1. *Written comments.* The Agency encourages that written comments be submitted, using the instructions in **ADDRESSES**, no later than July 3, 2007, to provide FIFRA SAP the time necessary to consider and review the written comments. However, written comments are accepted until the date of the meeting. Persons wishing to submit written comments at the meeting should contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** and submit 30 copies. There is no limit on the extent of written comments for consideration by FIFRA SAP.

2. *Oral comments.* The Agency encourages that each individual or group wishing to make brief oral comments to FIFRA SAP submit their request to the DFO listed under **FOR FURTHER INFORMATION CONTACT** no later than July 10, 2007, in order to be included on the meeting agenda. Requests to present oral comments will be accepted until the date of the meeting and, to the extent that time permits, the Chair of the FIFRA SAP may permit the presentation of oral comments at the meeting by interested persons who have not previously requested time. The request should identify the name of the individual making the presentation, the organization (if any) the individual will represent, and any requirements for audiovisual equipment (e.g., overhead projector, 35 mm projector, chalkboard). Oral comments before FIFRA SAP are limited to approximately 5 minutes unless prior arrangements have been made. In addition, each speaker should bring 30 copies of his or her comments and presentation slides for distribution to the FIFRA SAP at the meeting.

3. *Seating at the meeting.* Seating at the meeting will be on a first-come basis.

4. *Request for nominations to serve as ad hoc members of the FIFRA SAP for this meeting.* As part of a broader process for developing a pool of candidates for each meeting, the FIFRA SAP staff routinely solicits the stakeholder community for nominations of prospective candidates for service as ad hoc members of the FIFRA SAP. Any interested person or organization may nominate qualified individuals to be considered as prospective candidates for a specific meeting. Individuals nominated for this meeting should have expertise in one or more of the following areas: Microbiology, disinfectant and sporicidal efficacy testing, cellular biology/morphology of bacterial spores and statistics. Nominees should be scientists who have sufficient professional qualifications, including training and experience, to be capable of providing expert comments on the scientific issues for this meeting. Nominees should be identified by name, occupation, position, address, and telephone number. Nominations should be provided to the DFO listed under **FOR FURTHER INFORMATION CONTACT** on or before March 26, 2007. The Agency will consider all nominations of prospective candidates for this meeting that are received on or before this date. However, final selection of ad hoc members for this meeting is a discretionary function of the Agency.

The selection of scientists to serve on the FIFRA SAP is based on the function of the panel and the expertise needed to address the Agency's charge to the panel. No interested scientists shall be ineligible to serve by reason of their membership on any other advisory committee to a Federal department or agency or their employment by a Federal department or agency except the EPA. Other factors considered during the selection process include availability of the potential panel member to fully participate in the panel's reviews, absence of any conflicts of interest or appearance of lack of impartiality, independence with respect to the matters under review, and lack of bias. Though financial conflicts of interest, the appearance of lack of impartiality, lack of independence, and bias may result in disqualification, the absence of such concerns does not assure that a candidate will be selected to serve on the FIFRA SAP. Numerous qualified candidates are identified for each panel. Therefore, selection decisions involve carefully weighing a number of factors including the candidates' areas of expertise and professional qualifications and achieving an overall balance of different scientific perspectives on the panel.

In order to have the collective breadth of experience needed to address the Agency's charge for this meeting, the Agency anticipates selecting approximately 10 ad hoc scientists. FIFRA SAP members are subject to the provisions of 5 CFR part 2634, Executive Branch Financial Disclosure, as supplemented by the EPA in 5 CFR part 6401. In anticipation of this requirement, prospective candidates for service on the FIFRA SAP will be asked to submit confidential financial disclosure information which shall fully disclose, among other financial interests, the candidate's employment, stocks and bonds, and, where applicable, sources of research support. The EPA will evaluate the candidates financial disclosure form to assess whether there are financial conflicts of interest, appearance of a lack of impartiality or any prior involvement with the development of the documents under consideration (including previous scientific peer review) before the candidate is considered further for service on the FIFRA SAP. Those who are selected from the pool of prospective candidates will be asked to attend the public meetings and to participate in the discussion of key issues and assumptions at these meetings. In addition, they will be asked to review and to help finalize the meeting minutes. The list of FIFRA SAP members participating at this meeting will be posted on the FIFRA SAP web site at *http://epa.gov/scipoly/sap* or may be obtained from the OPP Regulatory Public Docket at *http://www.regulations.gov.*

II. Background

A. Purpose of the FIFRA SAP

The FIFRA SAP serves as the primary scientific peer review mechanism of the EPA, Office of Prevention, Pesticides and Toxic Substances (OPPTS), and is structured to provide scientific advice, information and recommendations to the EPA Administrator on pesticides and pesticide-related issues as to the impact of regulatory actions on health and the environment. The FIFRA SAP is a Federal advisory committee established in 1975 under FIFRA that operates in accordance with requirements of the Federal Advisory Committee Act. The FIFRA SAP is composed of a permanent panel consisting of seven members who are appointed by the EPA Administrator from nominees provided by the National Institutes of Health and the National Science Foundation. FIFRA, as amended by the FQPA of 1996, established a Science Review Board consisting of at least 60 scientists who are available to the FIFRA SAP on an ad hoc basis to assist in reviews conducted by the Panel. As a peer review

mechanism, the FIFRA SAP provides comments, evaluations and recommendations to improve the effectiveness and quality of analyses made by Agency scientists. Members of the FIFRA SAP are scientists who have sufficient professional qualifications, including training and experience, to provide expert advice and recommendation to the Agency.

B. Public Meeting

The FIFRA SAP will meet to consider and review guidance on test methods for demonstrating the efficacy of antimicrobial products for inactivating *Bacillus anthracis (B. anthracis)* spores on environmental surfaces. EPA regulations require that product performance (efficacy) studies be submitted to support registration of an antimicrobial product for which public health claims, such as "disinfect" or "sterilize" (40 CFR 158.640), are made. In addition, any claim of inactivation of a specific microorganism should be supported by valid data that demonstrate the efficacy of the product against that particular microorganism. At this SAP meeting, the EPA will present draft guidance concerning efficacy testing to support a claim that an antimicrobial product inactivates *B. anthracis* spores on inanimate environmental surfaces. EPA is seeking the assistance of the FIFRA SAP to review and comment on the scientific basis for efficacy data requirements to support registration of products that make such claims. Specific topics the FIFRA SAP will be asked to consider include available qualitative and quantitative sporicidal efficacy test methods, the use of various coupon materials to conduct tests, use of test surrogates for *B. anthracis*, and the adequacy of performance standards for quantitative sporicidal testing. Further, EPA is seeking assistance of the SAP to review and comment on the scientific basis for using a "simulated use test" for gases and vapors to support registration of sterilants and sporicides.

C. FIFRA SAP Documents and Meeting Minutes

EPA's background paper, related supporting materials, charge/questions to the FIFRA SAP, FIFRA SAP composition (i.e., members and ad hoc members for this meeting), and the meeting agenda will be available by mid-June. In addition, the Agency may provide additional background documents as the materials become available. You may obtain electronic copies of these documents, and certain other related documents that might be available electronically, at *http://www.regulations.gov* and the FIFRA SAP homepage at *http://www.epa.gov/scipoly/sap*.

The FIFRA SAP will prepare meeting minutes summarizing its recommendations to the Agency approximately 90 days after the meeting. The meeting minutes will be posted on the FIFRA SAP web site or may be obtained from the OPP Regulatory Public Docket at *http://www.regulations.gov*.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: March 2, 2007.

Clifford J. Gabriel,

Director, Office of Science Coordination and Policy.

[FR Doc. E7–4276 Filed 3–13–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0191; FRL–8119–7]

Pesticide Program Dialogue Committee, Pesticide Registration Improvement Act Process Improvement Workgroup; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA's Pesticide Program Dialogue Committee (PPDC), Pesticide Registration Improvement Act (PRIA) Process Improvement Workgroup will hold a public meeting on April 10, 2007. An agenda for this meeting is being developed and will be posted on EPA's website. The workgroup is developing advice and recommendations on topics related to EPA's registration process.

DATES: The meeting will be held on Tuesday, April 10, 2007, from 1 p.m. to 4 p.m.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATON CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held at Conference Center, Lobby Level, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Elizabeth Leovey, Immediate Office, 7501P, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7328; fax number: (703) 308–4776; e-mail address: *leovey.elizabeth@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of particular interest to persons who are concerned about implementation of the Pesticide Registration Improvement Act (PRIA), the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the Federal Food, Drug, and Cosmetic Act (FFDCA). Other potentially affected entities may include but are not limited to agricultural workers and farmers; pesticide industry trade associations; environmental, consumer and farmworker groups; pesticide users and growers; pest consultants; State, local and Tribal governments; academia; public health organizations; food processors; and the public. Since other entities may also be interested, the Agency has not attempted to describe all specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2007–0191. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at *http://www.epa.gov/fedrgstr*.

II. Background

The Office of Pesticide Programs (OPP) is entrusted with the responsibility of ensuring the safety of the American food supply, protection and education of those who apply or are exposed to pesticides occupationally or

through use of products, and the general protection of the environment and special ecosystems from potential risks posed by pesticides. The PPDC was established under the Federal Advisory Committee Act (FACA), Public Law 92-463, in September 1995 for a 2 year–term and has been renewed every 2 years since that time. The PPDC provides advice and recommendations to OPP on a broad range of pesticide regulatory, policy, and program implementation issues that are associated with evaluating and reducing risks from the use of pesticides. The following sectors are represented on the PPDC: Pesticide industry and trade associations; environmental/public interest and consumer groups; farm worker organizations; pesticide user, grower and commodity groups; Federal and State/local/Tribal governments; the general public; academia; and public health organizations. Copies of the PPDC charter are filed with appropriate committees of Congress and the Library of Congress and are available upon request.

III. How Can I Request to Participate in this Meeting?

This meeting will be open to the public and seating is available on a first-come basis. Persons interested in attending do not need to register in advance of the meeting. Opportunity will be provided for questions and comments by the public. Any person who wishes to file a written statement may do so before or after the meeting by giving a copy of the statement to the person listed under **FOR FURTHER INFORMATION CONTACT**. These statements will become part of the permanent record and will be available for public inspection at the address listed under Unit 1.B.1. Do not submit any information in your request that is considered CBI.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

List of Subjects

Environmental protection.

Dated: March 7, 2007.

James Jones,

Director, Office of Pesticide Programs.

[FR Doc. E7–4647 Filed 3–13–07 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0955-FRL–8119–1]

Rodenticides; Proposed Risk Mitigation Decision; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; extension of comment period.

SUMMARY: EPA issued a notice in the **Federal Register** of January 17, 2007, concerning the availability of the Proposed Risk Mitigation Decision for nine rodenticides. The nine rodenticides covered by the Proposed Risk Mitigation Decision are brodifacoum, bromadiolone, difethialone, chlorophacinone, diphacinone, warfarin, zinc phosphide, bromethalin, and cholecalciferol. This document is extending the comment period for 60 days, from March 19, 2007, to May 18, 2007.

DATES: Comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0955, must be received on or before May 18, 2007.

ADDRESSES: Follow the detailed instructions as provided under **ADDRESSES** in the **Federal Register** document of January 17, 2007.

FOR FURTHER INFORMATION CONTACT: Kelly Sherman, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-8401; e-mail address: *sherman.kelly@epa.gov* or Laura Parsons, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-5776; e-mail address: *parsons.laura@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

The Agency included in the notice a list of those who may be potentially affected by this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

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

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

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

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

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

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

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

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

C. How and to Whom Do I Submit Comments?

To submit comments, or access the official public docket, please follow the detailed instructions as provided in **SUPPLEMENTARY INFORMATION** of the January 17, 2007, **Federal Register** document. If you have questions, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

II. What Action is EPA Taking?

This document extends the public comment period established in the **Federal Register** of January 17, 2007 (72 FR 1992) (FRL–8104–7). In that document, EPA announced the availability of the availability of the Proposed Risk Mitigation Decision for nine rodenticides. The nine rodenticides covered by the Proposed

Risk Mitigation Decision are brodifacoum, bromadiolone, difethialone, chlorophacinone, diphacinone, warfarin, zinc phosphide, bromethalin, and cholecalciferol. EPA is hereby extending the comment period, which was set to end on March 19, 2007, to May 18, 2007.

III. What is the Agency's Authority for Taking this Action?

Section 4(g)(2) of FIFRA, as amended, directs that, after submission of all data concerning a pesticide active ingredient, the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration. Further provisions are made to allow a public comment period. However, the Administrator may extend the comment period, if additional time for comment is requested. In this case, several stakeholders have requested additional time to develop comments due to the complexity of the issues raised by the proposed mitigation decision. In addition, the Rodenticide Registrants Task Force (RRTF) has requested additional time to develop comments using information recently placed in the docket and provided to the RRTF.

List of Subjects

Environmental protection, Pesticides and Pests.

Dated: March 2, 2007.

Debra Edwards,

Director, Special Review and Reregistration, Division, Office of Pesticide Programs]

[FR Doc. E7–4648 Filed 3–13–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0168; FRL–8117–8]

Pesticide Product Registrations; Conditional Approval – *Beauveria bassiana* HF23

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications submitted by Jabb of the Carolinas, to conditionally register the pesticide products *Beauveria bassiana* HF23 (Technical) and the End-use Product, balEnce containing a new active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(7)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: Shanaz Bacchus, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8097; e-mail address: *bacchus.shanaz@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2007–0168. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are also available for public inspection. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. Such requests should: Identify the product name and registration number and specify the data or information desired.

A paper copy of the fact sheet, which provides more detail on this registration, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the **"Federal Register"** listings at *http://www.epa.gov/fedrgstr.*

II. Did EPA Conditionally Approve the Application?

A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 154.7; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects; and that use of the pesticide is in the public interest. The Agency has considered the available data on the risks associated with the proposed use of *Beauveria bassiana* HF23, and information on social, economic, and environmental benefits to be derived from such use. Specifically, the Agency has considered the nature and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of *Beauveria bassiana* HF23 during the period of conditional registration will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is, in the public interest.

Consistent with section 3(c)(7)(C) of FIFRA, the Agency has determined that these conditional registrations are in the public interest. Use of the pesticides are of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of the pesticides will not result in unreasonable adverse effects to man and the environment.

III. Conditional Approval Form

EPA issued a notice, published in the **Federal Register** of February 15, 2006 (71 FR 7954) (FRL–7761–5), which announced that Jabb of the Carolinas, P.O. Box 310, Pine Level, NC 27568, had submitted an application to conditionally register the pesticide products, *Beauveria bassiana* HF23 Technical, insecticide (EPA File Symbol 70787-1), containing the fungal active ingredient at 95 percent, an active ingredient not included in any previously registered product.

Listed below are the applications conditionally approved on December 27, 2006 for an end-use product and a technical.

1. *EPA File Symbol 70787-1*: *Beauveria bassiana* HF23 Technical at 95 percent for use as a Manufacturing product for insecticides. Manufacturer: Jabb of the Carolinas, P.O. Box 310, Pine Level, NC 27568. The registrant must provide analyses of five production batches of this Technical Grade Active Ingredient which is to be used for manufacture of other End-use Products.

2. *EPA File Symbol 70787-2*: End-use Product (EP) balEnce containing 1.18 percent of *Beauveria bassiana* HF23 Technical for treatment of poultry houses to control house fly in chicken manure.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: February 28, 2007.

Janet L. Andersen,

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

[FR Doc. E7–4275 Filed 3–13–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2007–0212; FRL–8287–6]

Notice of Availability of the External Review Draft of an Interim Guidance for Microarray-Based Assays

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of document availability for public comment.

SUMMARY: The U.S. Environmental Protection Agency is announcing a 45 day public comment period for the External Review Draft of the "Interim Guidance for Microarray-Based Assays: Data Submission, Quality, Analysis, Management and Training Considerations." EPA is releasing this draft document solely for the purpose of seeking public comment prior to external peer review. The contractor-lead external expert peer review will be conducted by letter and closed teleconference in the May 2007 timeframe. All comments received, submitted in accordance with this notice, will be shared with the external peer review panel for their consideration. Comments received after the close of the comment period may be considered by EPA when it finalizes the document. This document has not been formally disseminated by EPA. This draft interim guidance does not represent and should not be construed to represent any EPA policy, viewpoint, or determination. Members of the public may obtain the draft interim guidance from *www.regulations.gov*; or *www.epa.gov/osa/spc/genomicsguidance.htm*; or from Dr. Kathryn Gallagher via the contact information below.

This draft Interim Guidance for Microarray-Based Assays outlines recommendations for: (1) What data to submit to the Agency for microarray studies, (2) performance approach considerations regarding quality assessment parameters, (3) data analysis approaches that should be considered; and (4) data management and storage issues for data submitted to or used by the Agency. The guidance applies to both human health and ecological DNA microarray data. The draft document was developed to provide information to the regulated community and other interested parties about submitting microarray data to the Agency and to provide guidance for EPA staff in evaluating such data and/or information.

DATES: All comments received by April 30, 2007 will be shared with the external peer review panel for their consideration. Comments received beyond that time may be considered by EPA when it finalizes the document.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2007–0212, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments:
- *E-mail: ORD.Docket@epa.gov.*
- *Mail:* ORD Docket, Environmental Protection Agency, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center (EPA/DC), Room 3334, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–ORD–2007–0212. Deliveries are only accepted from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2007–0212. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected by statute through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA, without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the ORD Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the ORD Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: Dr. Kathryn Gallagher, Office of the Science Advisor, Mail Code 8105–R, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–1398; fax number: (202) 564–2070, E-mail: *Gallagher.kathryn@epa.gov*.

SUPPLEMENTARY INFORMATION: The mapping of diverse animal, plant, and microbial species genomes using molecular technologies has significantly affected research across all areas of the life sciences. The current understanding of biological systems is rapidly changing in ways previously unimagined and novel applications of this technology have already been commercialized. These advances in genomics are likely to have significant implications for risk assessment policies and regulatory decision making. In 2002, EPA issued its Interim Policy on Genomics (available at *http://www.epa.gov/osa/spc/genomics.htm*) that communicated the Agency's initial approach to using genomics information in risk assessment and decision making. The Interim Policy described genomics as the study of all the genes of a cell or tissue, at the DNA (genotype), mRNA (transcriptome), or protein (proteome) level. While noting that the understanding of genomics is far from established, the Agency stated that such data may be considered in the decision making process, but that these data alone were insufficient as a basis for decisions.

Following the release of the Interim Policy, EPA's Science Policy Council (SPC) created a cross-EPA Genomics Task Force and charged it with examining the broader implications genomics is likely to have on EPA programs and policies. The Genomics Task Force developed a Genomics White Paper entitled "Potential Implications of Genomics for Regulatory and Risk Assessment Applications at EPA" (available at *http://www.epa.gov/osa/genomics.htm*). That document identified four areas likely to be influenced by the generation of genomics information within EPA and the submission of such information to EPA: (1) Prioritization of contaminants and contaminated sites; (2) monitoring; (3) reporting provisions; and (4) risk assessment. The Task Force identified the establishment of a framework for analysis and acceptance criteria for genomics information for scientific and regulatory purposes as a critical need. The Task Force recommended that the Agency charge a workgroup to establish such a framework and in doing so consider the performance of assays across genomic platforms (*e.g.*, reproducibility, sensitivity, pathway analysis tools) and the criteria for accepting genomics data for use in a risk assessment (*e.g.*, assay validity, biologically meaningful response).

In 2004, EPA's Genomics Technical Framework and Training Workgroups were formed with the responsibility to ensure that the technical framework and training activities build upon the Agency's Interim Policy on Genomics while continuing to engage other interested parties. Information developed by these workgroups is intended for use by the EPA program offices and regions to determine the applicability of specific genomics information to the evaluation of risks under various statutes.

To this end, EPA's Genomics Technical Workgroup considered all of the "omics" technologies and applications and decided that an interim guidance document on the use of data generated by DNA microarray technology would be most beneficial to the Agency and regulated community at this time. Consequently, this document describes data submission, quality, analysis, management and training considerations for microarray-based assays. It is important to note that microarray technology is rapidly changing, such that methodologies for generating such data and ensuring its quality will likely change; however the need to ensure consistency and quality in generating, analyzing and using the data will not. As the state of the science develops, EPA plans to revisit this guidance as necessary.

EPA will consider all peer review and public comments in finalizing its Interim Guidance for Microarray-Based Assays. To obtain additional information, visit: *http://www.epa.gov/osa/spc/genomicsguidance.htm*

Dated: March 9, 2007.

Elizabeth Lee Hofmann,

Acting Chief Scientist, Office of the Science Advisor.

[FR Doc. E7–4650 Filed 3–13–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8287–5]

Notice of Approval of Revisions to Delaware's National Pollutant Discharge Elimination System (NPDES) Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of approval.

SUMMARY: Notice is hereby given of approval of the submittal by the State of Delaware of its new and revised NPDES regulations to maintain consistency with the requirements of the Clean Water Act and its implementing regulations at 40 CFR 122, 123 and 124, as amended.

DATES: EPA's approval is effective on March 14, 2007.

FOR FURTHER INFORMATION CONTACT: Evelyn MacKnight, U.S. EPA, Region 3, 1650 Arch Street, Philadelphia, PA 19103, or telephone her at (215) 814–5717. Copies of materials considered by EPA in its decision are available for review by appointment at U.S. EPA, Region 3, 1650 Arch Street, Philadelphia, PA 19103. Appointments may be made by calling Ms. MacKnight.

SUPPLEMENTARY INFORMATION: Section 402 of the Federal Clean Water Act (CWA) created the NPDES program under which the Administrator of EPA may issue permits for the discharge of pollutants into waters of the United States when consistent with the CWA. Section 402(b) allows States to assume NPDES program responsibilities upon approval by EPA. On April 1, 1974, Delaware was authorized by EPA to administer the NPDES program; the State also received the authority to administer the General Permits program on October 23, 1992.

EPA has established a regulation at 40 CFR Part 123 that establishes the requirements for NPDES State Programs. Section 123.62 establishes procedures for the revision of authorized NPDES State Programs. Pursuant to § 123.62(a), a State may initiate a program revision and must keep EPA informed of any proposed modifications to its regulatory authority. On July 28, 2003, the State of Delaware submitted to EPA for review and approval revisions to the regulations implementing the State's NPDES program. The State made significant revisions to sections 1 through 8 and sections 10 through 14 of its Department of Natural Resources and Environmental Control's (DNREC) March 15, 1974 Regulations Governing the Control of Water Pollution, which EPA has determined constituted a substantial revision to Delaware's authorized NPDES program. EPA determined that the State's submittal was complete on November 19, 2003, with the submittal of a statement from the State's Attorney General's office which certified that the regulations were duly adopted pursuant to State law. EPA solicited public comments as to whether it should approve or disapprove the revisions on February 10, 2004 (69 FR 6289) pursuant to

Federal regulations at 40 CFR 123.62(b)(2) . EPA received no comments in response to the public notice.

As part of EPA's obligation under the Endangered Species Act, EPA prepared a biological evaluation to determine if approval of the revised Regulations Governing the Control of Water Pollution will adversely affect threatened and endangered species and their critical habitat in Delaware. The biological evaluation found that EPA's approval would not adversely affect threatened or endangered species. EPA shared this evaluation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Services and they concurred with EPA's finding on October 9, 2003 and November 7, 2003, respectively.

Regulatory Flexibility Act Based on General Counsel Opinion 78–7 (April 18, 1978)

EPA has long considered a determination to approve or deny a State NPDES program submittal to constitute an adjudication because an "approval," within the meaning of the APA, constitutes a "license," which, in turn, is the product of an "adjudication." For this reason, the statutes and Executive Orders that apply to rulemaking action are not applicable here. Among these are provisions of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.* Under the RFA, whenever a Federal agency proposes or promulgates a rule under Section 553 of the Administrative Procedure Act (APA), after being required by that section or any other law to publish a general notice of proposed rulemaking, the Agency must prepare a regulatory flexibility analysis for the rule, unless the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. If the Agency does not certify the rule, the regulatory flexibility analysis must describe and assess the impact of a rule on small entities affected by the rule. Even if this approval of revisions to Delaware's NPDES program were a rule subject to the RFA, the Agency would certify that approval of the State's revised NPDES program would not have a significant economic impact on a substantial number of small entities. EPA's action to approve an NPDES program merely recognizes that the necessary elements of an NPDES program have already been enacted as a matter of State law; it would, therefore, impose no additional obligations upon those subject to the State's program. Accordingly, the Regional Administrator would certify that this approval, even if a rule, would not have a significant economic impact on a substantial number of small entities.

Notice of Decision: I hereby provide public notice of the Agency's approval, pursuant to 40 CFR 123.62, of the State of Delaware's revisions to its Regulations Governing the Control of Water Pollution, as consistent with the requirements of the Clean Water Act NPDES Program.

Dated: February 15, 2007.

William T. Wisniewski,

Acting Regional Administrator, Region 3.

[FR Doc. E7–4643 Filed 3–13–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority

March 5, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments May 14, 2007. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Allison E. Zaleski, Office of Management and Budget (OMB), Room 10236 NEOB, Washington, DC 20503, (202) 395–6466, or via fax at 202–395–5167, or via the Internet at *Allison_E._Zaleski@omb.eop.gov* and to *Judith-B.Herman@fcc.gov*, Federal Communications Commission (FCC), Room 1–B441, 445 12th Street, SW., Washington, DC 20554. To submit your comments by e-mail send them to: *PRA@fcc.gov*. If you would like to obtain or view a copy of this information collection after the 60 day comment period, you may do so by visiting the FCC PRA Web page at: *http://www.fcc.gov/omd/pra*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s) send an e-mail to *PRA@fcc.gov* or contact Judith B. Herman at 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–1062.

Title: Schools and Libraries Universal Service Support Mechanism—Notification of Equipment Transfers.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 100 respondents; 100 responses.

Estimated Time Per Response: 1 hour.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement, and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 100 hours.

Annual Cost Burden: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission does not request that respondents submit confidential information to the Commission. If the Commission does request respondents to submit information that they believe is confidential, respondents may request confidential treatment of such information under 47 CFR 0.459.

Needs and Uses: This collection will be submitted as an extension after this 60 day comment period to Office of Management and Budget (OMB) in order to obtain the full three year clearance. The Commission has adjusted the number of respondents and burden hours to reflect the most current information available. In the event that a participant of the schools and libraries universal service mechanism (also

known as the e-rate program) is permanently or temporarily closed and equipment is transferred, the transferring entity must notify the Administrator of the transfer (third party disclosure requirement). Both the transferring and receiving entities must maintain detailed records (recordkeeping requirement) documenting the transfer and the reason for the transfer for a period of five years.

The purpose of the collection is to promote the goal of preventing waste, fraud, and abuse; we extend that prohibition to all transfers, without regard to whether money or anything of value has been received in return for a period of three years after purchase.

OMB Control No.: 3060–0355.

Title: Rate-of-Return Reports.

Form Nos: FCC Forms 492 and 492–A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 120 respondents; 120 responses.

Estimated Time Per Response: 8 hours.

Frequency of Response: Annual reporting requirement and recordkeeping requirement.

Obligation to Respond: Mandatory.

Total Annual Burden: 960 hours.

Annual Cost Burden: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality. All of the data collected is available for public inspection.

Needs and Uses: This collection will be submitted as an extension after this 60 day comment period to Office of Management and Budget (OMB) in order to obtain the full three year clearance. The Commission has adjusted the number of respondents and burden hours to reflect the most current information available.

FCC Form 492 is filed by each local exchange carrier (LEC) or group of carriers who file individual access tariffs or who are not subject to Sections 61.41 through 61.49 of the Commission's rules. Each LEC, or group of affiliated carriers subject to the previously stated sections, file FCC Form 492A. Both forms are filed annually. The reports contain rate-of-return information and are needed to enable the Commission to fulfill its regulatory responsibilities.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–4249 Filed 3–13–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

March 2, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before May 14, 2007. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Allison E. Zaleski, Office of Management and Budget, Room 10236 NEOB, Washington, DC 20503, (202) 395–6466, or via fax at 202–395–5167 or via Internet at *Allison_E._Zaleski@omb.eop.gov* and to *Judith-B. Herman@fcc.gov*, Federal Communications Commission, Room 1–B441, 445 12th Street, SW., Washington, DC 20554 or an e-mail to *PRA@fcc.gov*. If you would like to obtain or view a copy of this information collection after the 60-day comment period, you may do so by visiting the FCC PRA Web page at: *http://www.fcc.gov/omd/pra*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1003.

Title: Communications Providers Emergency Contact Information.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, Federal, and state, local or tribal government.

Number of Respondents: 5,000 respondents for initial contact information; 300 respondents for critical information input.

Estimated Time Per Response: 0.1 hours for initial contact information; 0.5 hours for initial input of critical information; and 0.1 hours for daily updates of critical information.

Frequency of Response: On occasion and annual reporting requirements. Annual requirement is for initial contact information. For critical information, the information is requested on a daily basis during a declared emergency. Assuming two emergencies are declared during the year, the information is updated daily until the emergency ends, on average about 20 days.

Obligation to Respond: Voluntary, and as necessary

Total Annual Burden: 500 hour for initial contact information; 1,500 hour for critical information input = 2,000 total annual burden hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission is not requesting that the respondents submit confidential information to the Commission. If the Commission requests respondents to submit information that they believe is confidential, respondents may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this revised information collection to OMB after this 60-day comment period to obtain the full three year clearance from them.

This collection as currently approved by OMB is needed to be able to reach emergency contact personnel at key telecommunications providers (such as wireline, wireless, broadcast, cable and satellite entities) during an emergency to assess the status of their facilities and network(s), and to determine appropriate agency response. The Commission's staff through the agency collected this emergency contact information via telephone.

In order to perform its homeland security and public safety functions, the Commission needs to revise this information collection to update the manner in which it collects emergency contact information, and in the event of an actual emergency to allow communications providers to input critical information about network status and resource requirements of communications providers. The FCC will revise this collection to provide an electronic database for communications providers to enter this information electronically, via the Internet. Communications providers are encouraged to volunteer this information. This database will be used initially for communications providers to enter basic contact information. In the event of a natural disaster or other emergency event, the database will be used to contact communications providers in affected areas and to determine the extent of any damage and to gauge the appropriate agency response.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–4652 Filed 3–13–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[WC Docket No. 03–171; DA 07–878]

Petition of Core Communications, Inc. for Forbearance Under 47 U.S.C. Section 160(c) From Application of the ISP Remand Order

AGENCY: Federal Communications Commission.

ACTION: Notice, termination of proceeding.

SUMMARY: This document provides notice of the termination of the reconsideration of the Commission's Order denying in part and granting in part Core Communications, Inc.'s petition for forbearance from application of the *ISP Remand Order*. All petitions for reconsideration have been withdrawn.

DATES: Effective April 13, 2007, unless the Wireline Competition Bureau receives an opposition to the termination prior to that date.

ADDRESSES: You may submit oppositions, identified by WC Docket No. 03–171, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Agency Web Site: http://www.fcc.gov.* Follow the instructions for submitting comments on the Electronic Comment Filing System (ECFS)/*http://www.fcc.gov/cgb/ecfs/.*
- *E-mail:* To *victoria.goldberg@fcc.gov.* Include WC Docket 03–171 in the subject line of the message.
- *Fax:* To the attention of Victoria Goldberg at 202–418–1567. Include WC Docket 03–171 on the cover page.
- *Mail:* All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. Parties should also send a copy of their filings to Victoria Goldberg, Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission, Room 5–A266, 445 12th Street, SW., Washington, DC 20554.
- *Hand Delivery/Courier:* The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002.

—The filing hours at this location are 8 a.m. to 7 p.m.
—All hand deliveries must be held together with rubber bands or fasteners.
—Any envelopes must be disposed of before entering the building.
—Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Instructions: All submissions received must include the agency name and docket number. All comments received will be posted without change to *http://www.fcc.gov/cgb/ecfs/*, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Victoria Goldberg, Wireline Competition Bureau, Pricing Policy Division, (202) 418–7353.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Public Notice released February 27, 2007. The complete text of the Public Notice is available for inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th St., SW., Room CY–A257, Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room, CY–B402, Washington, DC 20554. The complete text may also be downloaded at: *http://www.fcc.gov.*

On October 8, 2004, the Commission adopted an order granting in part and denying in part a petition for forbearance filed by Core Communications, Inc. (Core) regarding application of the Commission's *ISP Remand Order (Core Forbearance Order)*. Two parties, SBC Communications Inc. (SBC) and Qwest Corporation (Qwest), filed petitions for reconsideration within the 30-day period established pursuant to § 1.429 of the Commission's rules. SBC filed its petition for reconsideration on November 17, 2004, and SBC's successor company, AT&T, withdrew that petition on July 18, 2006. Qwest filed a conditional petition for reconsideration on November 10, 2004 and withdrew its petition on January 23, 2007. There are no pending petitions for reconsideration of the Core Forbearance Order. Therefore, the proceeding will be terminated effective 30 days after publication of this Public Notice in the **Federal Register**, unless the Wireline Competition Bureau receives an opposition to the termination before that date.

Federal Communications Commission.

Thomas J. Navin,

Chief, Wireline Competition Bureau.

[FR Doc. E7–4558 Filed 3–13–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 07–193]

LPTV and TV Translator Applications Mutually Exclusive Proposals

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Video Division of the Media Bureau announces a 60-day period beginning February 22, 2007 and ending April 23, 2007, for parties with proposals in the mutually exclusive (MX) groups listed in the Public Notice from the July-August 2000 filing window to enter into settlement agreements or otherwise resolve their mutual exclusivities by means of engineering solutions.

DATES: The deadline for submitting a settlement or engineering amendment is April 23, 2007.

FOR FURTHER INFORMATION CONTACT: Shaun Maher of the Video Division, Media Bureau, at (202) 418–1600.

SUPPLEMENTARY INFORMATION: On February 22, 2007, the Video Division of the Media Bureau released a Public Notice announcing a 60-day period beginning February 22, 2007 and ending April 23, 2007, for parties with proposals in the mutually exclusive (MX) groups listed in the Public Notice from the July–August 2000 filing window to enter into settlement agreements or otherwise resolve their mutual exclusivities by means of engineering solutions. Interested parties listed in the Attachment A to the Public Notice must submit their settlement or engineering amendment by 6 p.m. ET, April 23, 2007. The settlements or engineering amendments must be filed via the Commission's CDBS electronic filing system and paper-filed settlements and engineering amendments will not be accepted. Complete instructions for filing settlements and engineering amendments via CDBS were included in the Public Notice.

Paperwork Reduction Act Approval: The FCC Form 346 was assigned control number 3060–0016 and was approved by the Office of Management and Budget (OMB) on May 25, 2005. Section 73.3525 of the Commission's rules was assigned control number 3060–0213 and was approved by OMB on December 21, 2006.

Federal Communications Commission.

Barbara Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. E7–4539 Filed 3–13–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Office of Agreements (202–523–5793 or *tradeanalysis@fmc.gov*).

Agreement No.: 011383–041.

Title: Venezuelan Discussion Agreement.

Parties: Hamburg-Süd, Seaboard Marine Ltd., King Ocean Service de Venezuela, and SeaFreight Line, Ltd.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment deletes the requirement that members post a financial security with the Agreement secretariat and makes the necessary conforming changes.

Agreement No.: 011550–012.

Title: ABC Discussion Agreement.

Parties: Hamburg-Süd, King Ocean Services Limited, and Seafreight Line, Ltd.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment deletes the requirement that members post a financial security with the Agreement secretariat and makes the necessary conforming changes.

Agreement No.: 011884–003.

Title: Hampton Road Chassis Pool II Agreement.

Parties: Virginia International Terminals, Inc., and the Ocean Carrier Equipment Management Association, for itself and on behalf of the following of its member lines: APL Co. Pte. Ltd.; American President Lines, Ltd.; Atlantic Container Line; CMA CGM, S.A.; Compania Sud Americana de Vapores, S.A.; COSCO Container Lines Company Limited; Evergreen Marine Corp. (Taiwan) Ltd.; Hanjin Shipping Co., Ltd.; Hamburg-Süd; Hapag-Lloyd AG; Hyundai Merchant Marine Co. Ltd.; Kawasaki Kisen Kaisha, Ltd.; CP Ships USA, LLC; Mitsui O.S.K. Lines Ltd.; Nippon Yusen Kaisha Line; Orient Overseas Container Line Limited; and Yang Ming Marine Transport Corp.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment would delete Australia-New Zealand Direct Line, a division of CP Ships (UK) Limited and Contship Containerlines, a division of CP Ships (UK) Limited; change the name of CP Ships USA, LLC to Hapag-Lloyd USA, LLC; and replace COSCO Container Lines Company Limited with COSCO Container Lines (Hong Kong) Co., Limited.

Agreement No.: 011990.

Title: HSDG/Maersk Slot Charter Agreement.

Parties: Hamburg-Süd; Alianca Navegacao e Logistica Ltda. e CIA; and A.P. Moller Maersk A/S.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The agreement authorizes Hamburg-Süd and Alianca to charter space to Maersk on vessels operating between the U.S. East Coast and Brazil, Argentina, and Uruguay. The parties request Expedited Review.

By Order of the Federal Maritime Commission.

Dated: March 9, 2007.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E7–4664 Filed 3–13–07; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel—Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel—Operating Common Carrier Ocean Transportation Intermediary Applicants

Marco Polo Logistics (LAX) Inc., 2411 Santa Fe Avenue, Suite B, Redondo Beach, CA 90278. *Officers:* Wei Sheung Ling, Secretary, (Qualifying Individual), James Ya-Hsiung Wu, President.

Royaline Shipping Line, 646 Fairview Avenue, Suite 20, Arcadia, CA 91007. *Officer:* Wei Wei Xu, President, (Qualifying Individual).

Likwidd International Inc., 9690 Telstar Avenue, Suite 226, El Monte, CA 91731. *Officers:* Xiao Fang Liu, President, (Qualifying Individual), Xiu Juan Lai, Secretary.

Easy On Logistics, Inc., 240 South Garfield Avenue, Suite 302, Alhambra, CA 91801. *Officers:* Victoria Florio, Secretary, (Qualifying Individual), Paul N. Florio, President.

Cajero, LLC dba Waes Cargo International, 2810 Morris Avenue, Suite 205, Union, NJ 07083. *Officers:* Joseph F. Kamara, Sen. Export Coordinator, Idrissa Diallo, Sen. Export Coordinator, Robert E. Smallwood, Manager, (Qualifying Individuals).

Marco Polo Logistics (SFO) Inc., 152 S. Spruce Avenue, S. San Francisco, CA 94080. *Officers:* Mike Ko-Jen Hsueh,

President, (Qualifying Individual), Shirley Yuan Li Ho, CFO.

Ocean Pacific Brokerage & Air Cargo Corp., dba Air Pacific Cargo, 16 Corning Avenue, Suite 154, Milpitas, CA 95035. *Officers:* Blas De Leon Caliva, CFO, (Qualifying Individual), Jessie Gonzaga, CEO.

Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Amad Logistics, LLC, 1402 NW. 82nd Avenue, Doral, FL 33126. *Officer:* Agustin G. Mendoza, Managing Member, (Qualifying Individual).

Prime Logistics International, Inc., 3225 SW. 124 CT, Miami, FL 33175. *Officer:* Jose Chao, President, (Qualifying Individual).

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

R & J Global, 371 Winona Lakes, East Stroudsburg, PA 18302, Rachelle P. Gonzalo, Sole Proprietor.

AAA Cuban Transportation Cargo & Logistics, Inc., 6025 W. 12th Avenue, Hialeah, FL 33012. *Officer:* Eduardo Mena, President, (Qualifying Individual).

Dated: March 9, 2007.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E7–4666 Filed 3–13–07; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activites; Comment Request; Correction

This notice corrects a notice (FR Doc. E7–4264) published on pages 10762 through 10764 of the issue for Friday, March 9, 2007.

Under the Federal Reserve System heading, the entry for Proposed Agency Information Collection Activities; Comment Request, is revised to read as follows:

SUMMARY: Background.

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board–approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Request for Comment on Information Collection Proposals

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collections of information are necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collections, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected; and

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before May 8, 2007.

ADDRESSES: You may submit comments, identified by FR 4021 (OMB No.7100–0306); FR 1375 (OMB No.7100–0307); FR 2060 (OMB No.7100–0232); FR 4031 (OMB No. 7100–0264); or Reg H–1 (OMB No. 7100–0091) by any of the following methods:

• Agency Web Site: http://www.federalreserve.gov. Follow the instructions for submitting comments at http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.

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

• E–mail: regs.comments@federalreserve.gov. Include docket number in the subject line of the message.

• FAX: 202/452–3819 or 202/452–3102.

• Mail: Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's web site at www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets, N.W.) between 9 a.m. and 5 p.m. on weekdays.

Additionally, commenters should send a copy of their comments to the OMB Desk Officer by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503 or by fax to 202–395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form and instructions, the Paperwork Reduction Act Submission, supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Michelle Shore, Federal Reserve Board Clearance Officer (202–452–3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact (202–263–4869), Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposals To Approve Under OMB Delegated Authority the Extension for Three Years, Without Revision, of the Following Reports

1. *Report title:* Notification of Nonfinancial Data Processing Activities

Agency form number: FR 4021.

OMB control number: 7100–0306.

Frequency: On occasion.

Reporters: Bank holding companies.

Annual reporting hours: 4 hours.

Estimated average hours per response: 2 hours.

Number of respondents: 2.

General description of report: This information collection is required to obtain a benefit. (12 U.S.C. 1843(c)(8), (j) and (k)) and may be given confidential treatment upon request (5 U.S.C. 552(b)(4)).

Abstract: Bank holding companies submit this notification to request permission to administer the 49–percent revenue limit on nonfinancial data processing activities on a business–line or multiple–entity basis. A request may be filed in a letter form; there is no reporting form for this information collection.

2. *Report title:* Survey of Financial Management Behaviors of Military Personnel

Agency form number: FR 1375.

OMB control number: 7100–0307.

Frequency: Semi–annually.

Reporters: Military personnel.

Annual reporting hours: 2,640 hours.

Estimated average hours per response: 20 minutes.

Number of respondents: 4,000.

General description of report: This information collection is voluntary. The statutory basis for collecting this information is section 2A of the Federal Reserve Act [12 U.S.C. § 225a]; the Bank Merger Act [12 U.S.C. § 1828(c)]; and sections 3 and 4 of the Bank Holding Company Act [12 U.S.C. §§ 1842 and 1843 and 12 U.S.C. §§ 353 and 461]. No issue of confidentiality normally arises because names and any other characteristics that would permit personal identification of respondents will not be reported to the Board.

Abstract: This survey gathers data from two groups of military personnel: (1) those completing a financial education course as part of their advanced training and (2) those not completing a financial education course. These two groups are surveyed on their financial management behaviors and changes in their financial situations over time. Data from the survey help to determine the effectiveness of financial education for young adults in the military and the durability of the effects as measured by financial status of those receiving financial education early in their military careers.

3. *Report title:* Survey to Obtain Information on the Relevant Market in Individual Merger Cases

Agency form number: FR 2060.

OMB control number: 7100–0232.

Frequency: On occasion.

Reporters: Small businesses and consumers.

Annual reporting hours: 18 hours.

Estimated average hours per response: Small businesses, 10 minutes; Consumers, 6 minutes.

Number of respondents: 25 small businesses and 50 consumers per survey

General description of report: This information collection is voluntary (12 U.S.C. §§1817(j), 1828(c), and 1842)) and is given confidential treatment (5 U.S.C. §§ 552 (b)(4) and (b)(6)).

Abstract: The Federal Reserve uses this information to define relevant banking markets for specific merger and acquisition applications and to evaluate changes in competition that would result from proposed transactions.

4. *Report title:* Notice of Branch Closure

Agency form number: FR 4031.

OMB control number: 7100–0264.

Frequency: On occasion.

Reporters: State member banks.

Annual burden hours: 422 hours.

Estimated average hours per response: Reporting requirements, 2 hours; Disclosure requirements, 1 hour; Recordkeeping requirements, 8 hours.

Number of respondents: 124.

General description of report: This information collection is mandatory (12 U.S.C. 1831r–l(a)(1)) and may be given confidential treatment upon request (5 U.S.C. 552(b)(4)).

Abstract: The mandatory reporting, recordkeeping, and disclosure requirements regarding the closing of any branch of an insured depository institution are imposed by section 228 of the Federal Deposit Insurance Corporation Improvement Act of 1991. There is no reporting form associated with the reporting portion of this information collection; state member banks notify the Federal Reserve by letter prior to closing a branch. The Federal Reserve uses the information to fulfill its statutory obligation to supervise state member banks.

5. *Report title:* Reports Related to Securities of State Member Banks as Required by Regulation H.

Agency form number: Reg H–1.

OMB Control number: 7100–0091.

Frequency: Quarterly and on occasion.

Reporters: State member banks.

Annual reporting hours: 1,477 hours.

Estimated average hours per response: 5.11 hours.

Number of respondents: 17.

General description of report: This information collection is mandatory (15 U.S.C. 781(i)) and is not given confidential treatment.

Abstract: The Federal Reserve's Regulation H requires certain state member banks to submit information relating to their securities to the Federal Reserve on the same forms that bank holding companies and nonbank entities use to submit similar information to the Securities and Exchange Commission. The information is primarily used for public disclosure and is available to the public upon request.

Board of Governors of the Federal Reserve System, March 9, 2007.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E7–4607 Filed 3–13–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 6, 2007.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. *Tri–County Holdings, Inc.*, Dongola, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank of Dongola, Dongola, Illinois.

B. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *Citizens National Corporation*, Wisner, Nebraska; to acquire 100

percent of the voting shares of Spalding City Corporation, Omaha, Nebraska, and thereby indirectly acquire voting shares of Spalding City Bank, Spalding, Nebraska.

Board of Governors of the Federal Reserve System, March 7, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–4439 Filed 3–13–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 9, 2007.

A. Federal Reserve Bank of Chicago (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Paramount Bancorp, Inc., Farmington Hills, Michigan; to acquire 100 percent of the voting shares of Paramount Bank Nevada (in organization), Las Vegas, Nevada.

B. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. AMG National Corp., Englewood, Colorado; to become a bank holding company by retaining 100 percent of the voting shares of AMG National Trust Bank, Englewood, Colorado, upon its conversion from a trust company to a commercial bank.

Board of Governors of the Federal Reserve System, March 8, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–4606 Filed 3–13–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *http://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 April 9, 2007.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. Hayward Bancshares, Inc., Eau Claire, Wisconsin; to acquire 100 percent of of the voting shares of Summit Community Bank, Maplewood, Minnesota, a *de novo* bank.

Board of Governors of the Federal Reserve System, March 9, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–4651 Filed 3–13–07; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FMR 2007–B2]

Placement of Commercial Antennas on Federal Property

AGENCY: General Services Administration.

ACTION: Notice of bulletin.

SUMMARY: The attached bulletin cancels and replaces FPMR Bulletin D–242, Placement of Commercial Antennas on Federal Property. It provides all Federal agencies with the general guidelines and processes for implementing President Clinton's memorandum of August 10, 1995, entitled "*Facilitating Access to Federal Property for the Siting of Mobile Services*," and section 704(c) of the Telecommunications Act of 1996, Pub. L. 104–104 (Feb. 8, 1996), as codified at 47 U.S.C. 332 note.

DATES: Effective Date: March 14, 2007.

FOR FURTHER INFORMATION CONTACT: Stanley C. Langfeld, Director, Regulations Management Division, Office of Governmentwide Policy, 202–501–1737 or *stanley.langfeld@gsa.gov*.

Dated: March 7, 2007.

Kevin Messner,

Acting Associate Administrator, Office of Governmentwide Policy.

[GSA Bulletin FMR Bulletin 2007–B2]

Real Property

To: Heads of Federal Agencies.

Subject: Placement of Commercial Antennas on Federal Property.

1. *Purpose.* This bulletin cancels and replaces FPMR Bulletin D–242, *Placement of Commerical Antennas on Federal Property*, which was published in the **Federal Register** on June 16, 1997, with an effective date of June 11, 1997 (62 FR 32611), and provides all Federal agencies with the general guidelines and processes for implementing President Clinton's memorandum of August 10, 1995, entitled "*Facilitating Access to Federal*

Property for the Siting of Mobile Services Antennas,'' which memorandum is still in effect, and section 704(c) of the Telecommunications Act of 1996, Pub. L. 104–104 (Feb. 8, 1996), 47 U.S.C. 332 note. This bulletin contains much of the same guidance as D–242 and includes updated information concerning the antenna siting program.

2. *Expiration.* This bulletin contains information of a continuing nature and will remain in effect until canceled.

3. *Background*

a. On August 10, 1995, President Clinton signed a memorandum directing the Administrator of General Services, in consultation with the heads of other Federal agencies, to develop procedures necessary to facilitate access to Federal property for the siting of ''mobile services antennas'' (telecommunications service provider equipment).

b. On February 8, 1996, the President signed the Telecommunications Act of 1996, which included a provision for making Federal property available for placement of telecommunications equipment by duly authorized providers.

c. On March 29, 1996, GSA published a Notice in the **Federal Register** outlining the guiding principles and actions necessary for Federal agencies to implement the antenna siting program promulgated by the Presidential memorandum and the Telecommunications Act of 1996.

d. In response to inquiries from the wireless telecommunications industry regarding the Federal Government's progress in this program, GSA conducted three Antenna Siting Forums: March 5, 1997, for Federal agencies; March 19, 1997, for the wireless telecommunications industry; and a joint forum on April 15, 1997.

e. A fact-finding working group comprised of industry and Federal agency representatives was established and met to discuss the issues raised during the initial two forums. These issues were:

(1) Development of a uniform evaluation process, including timely response and an appeals process, to facilitate and explain the basic application process;

(2) Site pricing to enable Federal agencies to retain flexibility in establishing the antenna rates;

(3) Site competition to provide timely response to requests and, where feasible, encourage industry collocation;

(4) Fee reimbursement to provide payment to the Federal Government for services and resources provided as part of the siting request review process;

(5) Site security, access, and rights-of-way to identify roles and responsibilities of both the Federal Government and the wireless telecommunications service provider; and

(6) Site request denial tracking to enable GSA and the wireless telecommunications industry to track antenna requests and denials.

f. GSA subsequently identified environmental and historic resource implications as additional issues to be considered by the working group and these issues are addressed in this document.

g. This collaborative effort, along with further meetings and discussions, has resulted in a better understanding of processes and procedures between the wireless telecommunications industry and the Federal agencies.

h. The updated guidelines and procedures described in this bulletin will further efforts for a more cooperative relationship between the Federal Government and the wireless telecommunications industry and continue efforts to facilitate implementing the requirements of section 704(c) of the Telecommunications Act of 1996 and President Clinton's memorandum on facilitating access to Federal Property.

4. *Action.* The following guidelines and procedures should be followed by all Executive departments and agencies. In addition, all independent regulatory commissions and other federal agencies also are requested to comply with the following:

a. *Determining impact to controlled property.* Each Executive department and agency that controls and operates real property, rights-of-way or easements affecting property by virtue of specific statutory authority is responsible for determining the extent and programmatic impact of placing commercially-owned antennas on its properties.

b. *Review of internal agency rules.* Each Executive department and agency should review its rules, policies and procedures for allowing commercial use of its properties and modify them, as necessary, to support the siting of commercial telecommunications service antennas as provided in this bulletin.

c. *Dissemination of antenna guidelines.* Executive department and agency officials in national, regional, and local offices who are responsible for the siting of commercial telecommunications service antennas should comply with the requirements and policies prescribed by the Telecommunications Act of 1996 concerning property, rights-of-way and easements under their agency's control, and President Clinton's memorandum on facilitating access to Federal property.

d. *Preliminary response to siting request.* Each Executive department and agency should provide at least a preliminary written response to any antenna siting request no later than sixty (60) days after receipt of the request. This response should be sent after performing an initial evaluation of the request. In the event that the Executive department or agency does not provide a preliminary written response to the siting request within sixty (60) days after receipt of the request, the request shall be deemed denied and the service provider shall have the right to appeal such denial in accordance with the procedures set forth at Section 6.d, below.

e. *Open communications.* Each Executive department and agency should maintain open communications with the requesting wireless telecommunications provider. Communication is critical once a siting request has been submitted and should be maintained throughout the term of the working relationship.

f. *Points of contact.* Each Executive department and agency should, upon request, provide firms and individuals with the agency's point of contact for placing commercial telecommunications service antennas on Federal properties. Generally, Federal buildings and courthouses are controlled by the General Services Administration; military posts and bases, by the Department of Defense; Veterans hospitals and clinics, by the Department of Veterans Affairs; and open land areas, including National Parks, National Forests and other public lands, by the Department of the Interior or the Department of Agriculture.

g. *Headquarters points of contact.* Attachment A is a listing of the agency points of contact in the headquarters of Federal real property holding departments and agencies. Anyone interested in placing antennas on specific Federally-owned properties should contact the appropriate agency official.

h. *Information required.* Telecommunications service providers must be duly licensed by the Federal Communications Commission (FCC) to be eligible to site antennas on federal property. Qualified, interested parties should specifically identify the Federal property and provide the basic information described in Attachment B (Uniform Review Process). Federal agencies should advise the applicants of any specific application procedures, and

provide the name of the local site or facility manager responsible for determining site suitability as well as the term and type of instrument (*e.g.*, lease, permit, license) required to facilitate access to the property.

i. *Assistance in determining property ownership.* In instances where the identity of the department or agency that has custody and control of the property is unknown, the GSA Office of Governmentwide Policy Office of Real Property Management should be contacted. This office maintains a listing of all properties owned by the Federal Government world-wide and will assist in the identification of such property. This office may be reached at (202) 501–0856, or by writing to the Office of Real Property Management (MP), Room 6207, General Services Administration, 1800 F Street, NW., Washington, DC 20405. To assist in identifying the appropriate Federal department or agency, inquiries should include the state, city/county, building/ property name and mailing address of the property in question.

5. *Applicability.* These guidelines are applicable to Executive departments and agencies for antenna siting requests for rooftops, open land or other requests for access under this program. These guidelines do not apply to lands held by the United States in trust for individual or Native American Tribal Governments. For antenna sites on property not under the jurisdiction, custody or control of GSA, agencies also should review the Department of Commerce Report entitled *"Improving Rights-of-Way Management Across Federal Lands: A Roadmap for Greater Broadband Deployment"* (April 2004).

6. *Antenna Siting Principles and Regulatory Guidance.* To facilitate compliance with the Telecommunications Act of 1996, and President Clinton's memorandum on facilitating access to Federal property, the following principles should be applied in evaluating requests for antenna siting access. In addition, agencies operating under, or subject to, the authorities of GSA should review 41 CFR 102–79.70—100 for additional regulatory guidance on siting antennas on federal property.

a. *Property availability.* Upon request, and to the extent permitted by law and to the extent practicable, Executive departments and agencies may make available Federal Government buildings and lands for the siting of telecommunications service antennas. This should be done in accordance with Federal, State and local laws and regulations, as applicable, and consistent with national security concerns. Care should be exercised to avoid electromagnetic intermodulations and interferences. The evaluation of the siting request must include consideration of environmental and historic preservation issues, including, but not limited to:

(1) Public health and safety with respect to the antenna installation and maintenance;

(2) Aesthetics;

(3) Effects on historic districts, sites, buildings, monuments, structures, or other objects pursuant to the National Historic Preservation Act of 1966, as amended, and implementing regulations, and the *September 2004 Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the Federal Communications Commission;*

(4) Protection of natural and cultural resources (*e.g.*, National Parks and Wilderness areas, National Wildlife Refuge systems);

(5) Compliance with the appropriate level of review and documentation as necessary under the National Environmental Policy Act of 1969, as amended, and implementing regulations of each Federal department and agency responsible for the antenna siting project, and the Federal Aviation Administration, the National Telecommunications and Information Administration, and other relevant departments and agencies; and

(6) Compliance with the FCC's guidelines for radiofrequency exposure, OET Bulletin 65, Edition 97–01, entitled *"Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields"* (August 1997), as the same may be revised from time to time, and any other guidance relating to radiofrequency guidelines and their enforcement. These updated guidelines for addressing health concerns reflect the latest scientific knowledge in this area, and are supported by Federal health and safety agencies such as the Environmental Protection Agency and the Food and Drug Administration.

b. *Site evaluation.* The evaluation of any siting request will also be subject to any additional requirements of the Federal agency managing the facility, the FCC, the Federal Aviation Administration, the National Telecommunications and Information Administration, and other relevant departments and agencies. In addition, the National Capital Planning Commission should be consulted for siting requests within the Washington, DC metropolitan area.

c. *Granting siting requests.* As a general rule, requests for the use of property, rights-of-way and easements by telecommunications service providers duly licensed by the FCC should be granted, unless there are unavoidable conflicts with the department's or agency's mission, or current or planned use of the property or access to that property. A denial of a siting request based on these criteria should be fully explained, in writing, as noted in paragraph d., below.

d. *Agency discretion for site denial.* Executive departments and agencies shall retain discretion to reject inappropriate siting requests and assure adequate protection of public property. In cases where the antenna siting request has been denied, Executive departments and agencies should allow the service provider to appeal the decision to a higher level of agency authority for review. Written denial of a siting request should be fully explained, and should advise the service provider of the name and mailing address of the appropriate agency official to whom the appeal should be sent.

e. *Site access.* All procedures and mechanisms adopted by Executive departments and agencies regarding access to Federal property should be clear and simple so as to facilitate the efficient build-out of the national wireless communications infrastructure. Obtaining rights of access to Federal properties through non-Federal lands is the sole responsibility of the telecommunications service provider.

f. *Costs for services.* The telecommunications service provider is responsible for any reasonable costs incurred by Federal agencies associated with providing access to antenna sites, including obtaining appropriate clearance of provider personnel for access to buildings or land deemed to be security sensitive as is done with service contractor personnel. OMB Circular A–25, entitled *"User Charges,"* revised July 8, 1993, established guidelines for agencies to assess fees for Government services, and for the sale or use of Government property or resources.

g. *Site fees.* Pursuant to the Telecommunications Act of 1996, agencies are authorized to charge reasonable fees for antenna sites on Federal property. In accordance with President Clinton's memorandum, Executive departments and agencies should charge fees based on market value. Fee determinations can be based on appraisal, use of set rate schedules or other reasonable means of value determination. Unless otherwise authorized by law to retain antenna siting proceeds, agencies collecting fees pursuant to the Telecommunications

Act must remit the fees to the General Fund of the Treasury.

h. *Site requests.* Executive departments and agencies should make antenna sites available on a fair, reasonable and nondiscriminatory basis. Collocation of antennas should be encouraged where there are multiple antenna siting requests for the same location. In cases where this is not feasible and space availability precludes accommodating all antenna siting applicants, competitive procedures may be used.

i. *Priority for siting antennas.* The siting of telecommunications service provider antennas should not be given priority over other authorized uses of Federal buildings or land.

j. *Advertising prohibition.* Antenna structures on Federal property may not contain any advertising.

k. *Equipment removal.* Terms and provisions of the lease, permit, license, or other legal instrument used should assure the timely removal or transfer of ownership of equipment and structures by the service provider. Unless the express terms of the applicable site access agreement provide otherwise, removal of such equipment and structures should be at the sole cost and expense of the telecommunications service provider.

l. *Review process.* For those Federal agencies that are unfamiliar with the siting request application process, Attachment B, Uniform Review Process, provides additional processing information to assist in the antenna siting request review.

m. *Additional Information.* Further information regarding this bulletin may be obtained by contacting Mr. Stanley C. Langfeld, Director, Regulations Management Division, Office of Governmentwide Policy, General Services Administration, (202) 501–1737.

Attachment A—Agency Contact Points for the Placement of Antennas on Federal Buildings

Bonneville Power Administration, Paul Majkut, Office of General Counsel, 905 Northeast 11th Avenue, Portland, OR 97232, (503) 230–4201.

Federal Communications Commission, Dennis Dorsey, Supervisor, Contracts Branch, 1919 M St., NW., Room 404, Washington, DC 50554, (202) 418–1865.

National Academy of Science, National Research Council, 2101 Constitution Ave., NW., Mail Stop (HA–274), Washington, DC 20418, (202) 334–3384.

National Aeronautics & Space Administration, Albert Johnson, Team Leader—Real Estate, Facilities Engineering & Real Property Division, NASA Headquarters, LD030, 300 E Street, SW, Washington, DC 20546–0001, (202) 358–1834.

National Archives & Records Administration, Mark Sprouse, Division Director, Facilities & Personal Property Management, (301) 837–3019, and John Bartell, Branch Chief, Facilities Management, (301) 837–1813, 8601 Adelphi Road, Room 2320, College Park, MD 20740–6001.

National Science Foundation, Property Administrator, Mary Lou Higgs, 4201 Wilson Blvd., Room 295, Arlington, VA 22230, (703) 292–8190.

Tennessee Valley Authority, Legal Department. 1101 Market Street, Mail Stop: (WR4A–C), Chattanooga, TN 37402–2801, (865) 632–4301.

U.S. Army Corps of Engineers, Management and Disposal Division in the Real Estate Directorate, 20 Massachusetts Ave., NW., Room 4224, Washington, DC 20314–1000, (202) 761–0511.

U.S. Department of Agriculture, Property Management Division, AG Box 9840, Washington, DC 20250, (202) 295–5028.

U.S. Department of Commerce, Office of Real Estate, 14th & Constitution Ave., NW., Room 1040, Washington, DC 20230, (202) 482–3580.

U.S. Department of Defense: Commercial companies who wish to place antennas on DOD property should first contact that property's Installation Commander. If unknown, please contact the following office: Brad Hancock, Commander—Installations, Requirements & Management, 3400 Defense Pentagon, Room 5C646, Washington, DC 20301–3340, (703) 571–9074.

U.S. Department of Education, Mitchell Clark, Assistant Secretary of Mangement & Chief Human Capital Officer, 400 Maryland Avenue, SW., Room FB6–2W311, Washington, DC 20202, (202) 401–5848.

U.S. Department of Energy, Engineering & Space Management Branch, 1000 Independence Ave., SW., Mail Stop: HR211, Room 1F–039, Washington, DC 20585, (202) 586–1557.

U.S. Department of Health & Human Services, Office of Facilities Management & Policy, 200 Independence Ave., SW., 3rd Floor, Washington, DC 20001, Diane Stewart (202) 205–4834.

U.S. Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Room 1000–LS, Washington, DC 20240–9998, (202) 452–7782.

U.S. Department of the Interior, National Park Service, Parks, Planning, Facilities & Lands, 1849 C Street, NW., Washington, DC 20240, Lee Dickinson, Right-of-Way Program Manager, (202) 513–7092.

U.S. Department of Justice, Real Property Management Services, Suite 1060, National Place Building, Washington, DC 20530, (202) 616–2266.

U.S. Department of Labor, Office of Facility Management, 200 Constitution Ave., NW., Room S 1520/ OFM, Washington, DC 20210, (202) 693–6660.

U.S. Department of State, Office of Real Property, 2201 C Street, NW., Suite 1264, Washington, DC 20520, (202) 647–3477.

U.S. Department of Transportation, Office of the Secretary, 400 7th Street, SW, Mail Stop: M72, Room 2318, Washington, DC 20590, Rita Martin (202) 366–9724.

U.S. Department of Treasury, Office of Real and Personal Property Management, Office of the Deputy Assistant Secretary for Departmental Finance and Management, 1500 Pennsylvania Ave., NW., Room 6140–ANX, Washington, DC 20220, (202) 622–0500.

U.S. Department of Veterans Affairs, Land Management Service, 811 Vermont Ave., NW., Mail Stop: 184A, Washington, DC 20005, (202) 565–5026.

U.S. Environmental Protection Agency, Architecture, Engineering and Asset Management Branch, Facilities Management and Services Division, Ronald Reagan Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, William Ridge, Branch Chief, (202) 564–2160.

U.S. General Services Administration: Commercial companies who wish to place antennas on GSA property should first contact the appropriate Regional Office of the Public Buildings Service. If unknown, please contact the Public Buildings Service, 1800 F St., NW., Washington, DC 20405, (202) 501–1100.

U.S. Government Printing Office, Office of Administrative Support, 710 North Capitol St., NW., Mail Stop: OA, Washington, DC 20401–0501, (202) 512–1074.

International Broadcasting Bureau/M/AF, CohenBuilding, 330 Independence Ave., SW., Washington, DC 20237, Carol Baker, Director of Administration, (202) 203–4588.

U.S. Postal Service, Realty Asset Management, 475 L'Enfant Plaza West, SW., Washington, DC 20260–6433, Bob Otto, (202) 268–5700.

Attachment B—Uniform Review Process

The following information may be used as a guide by Federal agencies upon receipt of an antenna siting request from a service provider duly licensed by the FCC. This uniform review process is intended to assist those Federal agencies that are unfamiliar with the review and evaluation of antenna siting proposals. This guidance has been developed based on input from several Federal agencies that have had extensive experience in working with the wireless communications industry and antenna siting requests for both rooftop and open land installations. In addition, agencies operating under, or subject to, the authorities of GSA should review 41 CFR 102–79.70—100 for additional regulatory guidance on siting antennas on Federal property.

a. *Siting request review.* Federal agencies should review the siting request to confirm that the required basic evaluation information is provided. This information should include the following:

(1) Name, address and telephone number of applicant and authorized or legal representative for the project;

(2) Specific building name and address, or, as appropriate, latitude and longitude or other site specific property identifier;

(3) Type and size of antenna installation and support required for the service provider's proposed wireless site, including access to site, utility requirements, acreage of land or ft/lb capacity for rooftops, etc. In cases where the proposed site is to be located on an established building or wireless facility, any special modification requirements unique to the service provider's proposal must be clearly identified;

(4) FCC license number and summary of antenna specifications, including frequencies;

(5) Proposed term of requirement;

(6) Terms of removal of equipment and structures or property restoration;

(7) Description of project or larger antenna installation program, if applicable; and

(8) As appropriate, proposed method of achieving environmental and historic sensitivity compliance.

b. *Site survey.*

(1) Upon agency completion of an initial review for information sufficiency, coordination with the facility manager, and determination that there is no obvious reason to deny the request, a site survey with the wireless telecommunications provider should be scheduled, in part to determine whether the site actually meets the needs of the service provider. If feasible, from the information available, a response should be sent to the applicant as soon as possible, but no later than sixty (60) days after receipt either granting or denying the siting request. In the event that the agency does not provide a preliminary written response to the siting request within sixty (60) days after receipt of the request, the request shall be deemed denied and the service provider shall have the right to appeal such denial in accordance with the procedures set forth in this bulletin.

(2) If there is insufficient information to make a decision, the agency should send a preliminary response to the applicant as soon as possible, but no later than sixty (60) days after receipt of the request. This response should inform the applicant of the need for any additional information, unique conditions or restrictions affecting the property, or other circumstances that may influence the timing or ultimate determination for site approval. In addition, the National Capital Planning Commission should be consulted for siting requests within the Washington, DC metropolitan area.

c. Point of contact. In all cases, the agency's response should include the name and telephone number of the agency representative or facility manager responsible for the project. This information will enable the applicant to initiate planning for the potential use of the requested site.

d. *Need for additional information.* If the preliminary response indicates additional information is required, the agency should review the applicant's response in a timely manner upon its receipt. The applicant should be advised, in writing, if there are any other review and reporting requirements necessary due to statutory, legal, or the agency's internal requirements prior to issuing a final decision. This may include an Environmental Assessment or an Environmental Impact Statement and public meetings as part of the National Environmental Policy Act of 1969, as amended, or any other potential reviews, including Section 106 of the National Historic Preservation Act of 1966, as amended, if applicable.

e. *Notification of fees.* Applicants should be advised as soon as possible of their responsibility for any charges for Government services provided in the review process or other issues that need to be resolved. This response should provide the applicant with an estimated time frame for completing the necessary actions and should be based on experience in dealing with projects of similar complexity.

f. *Final decisions.* Final decisions should be rendered, in writing, in a timely manner and after completion of all required reviews, evaluations or assessments. Denials of requests should provide the applicant with a written explanation of the reasons for denying the request. In addition, the applicant should be advised of the agency's appeal procedure, and the name and mailing address of the appropriate agency official to whom the appeal should be sent.

g. *Formal documentation.* After agency determination to approve the project, a lease, permit, license or other legal instrument should be executed to document the terms, conditions and responsibilities of both the Federal Government and the telecommunications service antenna provider.

[FR Doc. E7–4644 Filed 3–13–07; 8:45 am]
BILLING CODE 6820–RH–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: OS–0990–New]

30-Day Notice; Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New collection.

Title of Information Collection: Evaluation of the Parents Speak Up National Campaign: Focus Groups.

Form/OMB No.: OS–0990–New.

Use: Evaluation of the Parents Speak Up National Campaign (PSUNC): Focus

Groups, formerly entitled The National Abstinence Media Campaign (NAMC): Focus Group. The focus group component of the evaluation is designed to complement longitudinal surveys of parents, described in the information collection request published in the November 9, 2006, **Federal Register**. A total of 16 focus groups will be conducted with parents of children aged 10 to 13. Two groups of mothers and two groups of fathers will be conducted for each of the the following groups: non-Hispanic Whites, non-Hispanic African Americans, English-speaking Hispanics, and Spanish-speaking Hispanics. The purpose of the focus group data collection is to help evaluate the Parents Speak Up National Campaign by learning qualitatively why parents may or may not change their attitudes and/or behaviors as a result of exposure to campaign messages. It will provide in-depth understanding of parents' views about their influence on children's sexual attitudes and behaviors, and about parents' reactions to the PSUNC materials.

Frequency: Reporting on Occasion.

Affected Public: Individuals or Households.

Annual Number of Respondents: 1280.

Total Annual Responses: 1280.

Average Burden Per Response: 15 minutes.

Total Annual Hours: 320.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov*, or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be received within 30 days of this notice directly to the Desk Officer at the address below: OMB Desk Officer: John Kraemer, OMB Human Resources and Housing Branch, Attention: (OMB #0990–New), New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: February 22, 2007.

Alice Bettencourt,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 07–1158 Filed 3–13–07; 8:45 am]

BILLING CODE 4150–25–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–07–0406]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Joan Karr, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS-D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

State and Local Area Integrated Telephone Survey (SLAITS), (OMB No. 0920–0406)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on the extent and nature of illness and disability of the population of the United States. The State and Local Area Integrated Telephone Survey (SLAITS) mechanism has been conducted since 1997. This is a request to continue for three years the integrated and coordinated survey system designed to collect needed health and well-being data at the national, state, and local levels (in accordance with the 1995 initiative to increase the integration of surveys within DHHS).

Using the large sampling frame from the ongoing National Immunization Survey (NIS) and Computer Assisted Telephone Interviewing (CATI), SLAITS has quickly collected and produced household and person-level data to monitor many health-related areas. Questionnaire content is drawn from existing surveys within DHHS as well as other Federal agencies, or developed specifically for an instrument according to the needs of the project sponsor. Examples of topical areas include child and family health and well-being, early childhood health, children with special health care needs (CSHCN), influenza vaccination of children, asthma prevalence and treatment, access to care, program participation, the health and well-being of adopted children, post-adoption support use, knowledge of Medicaid and the State Children's Health Insurance Program (SCHIP), and changes in health care coverage at the national and state levels. The first module covered in this three-year clearance is the 2008 National Survey of Children with Special Health Care Needs (NS-CSHCN). It will provide data to be used for program planning and evaluation at the state and national levels.

Since its inception the SLAITS mechanism has been used by government, university, and private researchers; policymakers; and advocates to evaluate content and programmatic health issues. For example, the CSHCN and Children's Health modules have been used by Federal and state Maternal and Child Health Bureau Directors to evaluate programs and service needs. Several SLAITS modules have provided data for numerous editions of two Congressionally-mandated reports on healthcare disparities and quality. The module on Medicaid and SCHIP was prominently featured in a report to Congress on insuring children. The SLAITS asthma module was featured in two resource guides published by another Federal agency to improve the quality of asthma care at the state-level.

There is no cost to respondents other than their time to participate.

ESTIMATE OF ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Household screening	622,000	1	1/60	10,367
Household interview	102,000	11	25/60	42,500
Pilot work, pre-testing, and planning activities	6,100	1	35/60	3,558
Total				56,425

Dated: March 5, 2007.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–4635 Filed 3–13–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-07–07AP]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Joan Karr, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Preventive Medicine Residency and Fellowship Program Evaluation—New—Office of Workforce and Career Development (OWCD), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Preventive medicine is a specialized field of medical practice that works with large populations to promote good health; to prevent disease, injury and disability; and to facilitate early diagnosis and treatment of illness. It is unique because its central focus is population health. Despite the nation's growing need for preventive-medicine skills, numerous studies have demonstrated an increasing shortage of preventive medicine-trained professionals, and that shortage is projected to continue (American College of Preventive Medicine; Council on Graduate Medical Education). The specialty will benefit from attracting new residents, rewarding programs that fill positions with highly qualified candidates, and expanding the specialty into new medical leadership roles (Ducatman, *et al.*, 2005).

The mission of CDC's Preventive Medicine Residency and Fellowship (PMR/F) is to (1) train public health and preventive medicine leaders, and (2) maintain leadership in the field of preventive medicine training. CDC's PMR/F has been training physicians in the residency since 1972 and veterinarians in the fellowship since 1983. PMR/F consists of a competency-based curriculum, a one-year practicum, and sponsorship for a Master of Public Health degree for qualified applicants before the practicum year. PMR/F provides its residents and fellows with training and experience in leadership, management, program development and evaluation, and the translation of epidemiology to public health practice.

During the past 15 years, the CDC PMR/F has adapted its educational plan and design in response to changing public health needs, feedback from trainees and stakeholders, internal reviews of the residency, changes in Accreditation Council for Graduate Medical Education (ACGME) requirements, and a formal national survey of Preventive Medicine Residency graduates conducted by CDC in 1991. The last formal evaluation of the program occurred as part of the 1991 survey.

CDC proposes a new project to evaluate the PMR/F. The goals of the evaluation are to determine: (1) How well PMR/F is fulfilling its mission to train competent public health practitioners and leaders, (2) the effectiveness of the PMR/F educational program, and (3) PMR/F's contribution to its residents and fellows, the CDC, and the larger public health community.

As part of this project, PMR/F practicum assignment mentors, alumni, and external preventive medicine subject matter experts will be asked to complete a questionnaire to provide information that addresses the evaluation's goals. Below is a description of the questionnaire's response burden. There is no cost to the respondents other than their time.

ESTIMATE OF ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
PMR/F Practicum Assignment Mentors	30	1	20/60	10
PMR/F Alumni	30	1	20/60	10

ESTIMATE OF ANNUALIZED BURDEN HOURS—Continued

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
External Preventive Medicine Subject Matter Experts	30	1	20/60	10
Total Hours				30

Dated: March 5, 2007.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–4670 Filed 3–13–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–07–0007]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Joan Karr, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Community Assistance Panels Nomination Form (CAPs)—(0923–0007)—Extension—Agency for Toxic Substances and Disease Registry (ATSDR), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Agency for Toxic Substances and Disease Registry (ATSDR) is mandated pursuant to the 1980 Comprehensive Environmental Response Compensation and Liability Act (CERCLA), and its 1986 Amendments, the Superfund Amendments and Reauthorization Act (SARA), to prevent or mitigate adverse human health effects and diminished quality of life resulting from the exposure to hazardous substances in the environment. To facilitate this effort, ATSDR seeks the cooperation of the community being evaluated through direct communication and interaction. Direct community involvement is required to conduct a comprehensive scientific study and to effectively disseminate specific health information in a timely manner. Also, this direct interaction fosters a clear understanding of health issues that the community considers to be important and establishes credibility for the agency. The Community Assistance Panel nominations forms are completed by individuals in the community to nominate themselves or others for participation on these panels.

This request is for a 3-year extension of the current OMB approval of the Community Assistance Panel nominations form. There is no cost to respondents other than their time.

ESTIMATE OF ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
General Public	150	1	10/60	25

Dated: March 5, 2007.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–4671 Filed 3–13–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006N–0133]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Experimental Evaluation of Variations in Content and Format of the Brief Summary in Direct-to-Consumer Print Advertisements for Prescription Drugs

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Fax written comments on the collection of information by April 13, 2007.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Elizabeth Berbakos, Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Experimental Evaluation of Variations in Content and Format of the Brief Summary in Direct-to-Consumer Print Advertisements for Prescription Drugs—(OMB Control Number 0910–0591)

Section 1701(a)(4) of the Public Health Service Act (42 U.S.C. 300u(a)(4)) authorizes FDA to conduct research relating to health information. Section 903(b)(2)(c) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 393(b)(2)(c)) authorizes FDA to conduct research relating to drugs and other FDA-regulated products in carrying out the provisions of the act. Under the act, a drug is misbranded if its labeling or advertising is false or misleading. In addition, section 502(n) of the act (21 U.S.C. 352(n)) specifies that advertisements for prescription drugs and biological products must provide a true statement of information "in brief summary" about the advertised product's "side effects, contraindications, and effectiveness." The prescription drug advertising regulations (§ 202.1(e)(3)(iii) (21 CFR 202.1(e)(3)(iii))) specify that the information about risks must include "each specific side effect and contraindication" from the advertised drug's approved labeling. The regulation also specifies that the phrase "side effect and contraindication" refers to all of the categories of risk information required in the approved product labeling written for health professionals, including the warnings, precautions, and adverse reactions sections. Thus, every risk in an advertised drug's approved labeling must be included to meet these regulations.

In recent years, FDA has become concerned about the adequacy of the brief summary in Direct-to-Consumer (DTC) print advertisements. Although advertising of prescription drugs was once primarily addressed to health professionals, increasingly consumers have become a target audience, as DTC advertising has dramatically increased in the past few years.

Because the regulations do not specify how to include each risk, sponsors can use discretion in fulfilling the brief summary requirement under § 202.1(e)(3)(iii). Frequently, sponsors print in small type, verbatim, the risk-related sections of the approved product labeling (also called the package insert, professional labeling, or prescribing information). This labeling is written for health professionals, using medical terminology. FDA believes that while this is one reasonable way to fulfill the brief summary requirement for print advertisements directed toward health professionals, this method is difficult for consumers to understand and therefore may not be the best approach to communicate this important information to them.

In 2004, FDA published a draft guidance entitled "Brief Summary: Disclosing Risk Information in Consumer-Directed Print Advertisements" (available at *http://www.fda.gov/cder/guidance/5669dft.htm*). This guidance outlined possible options for improving the communication of risk information to consumers in specific promotional pieces. When discussing the current professional prescribing information format, the guidance states that the "volume of the material, coupled with the format in which it is presented... discourages its use and makes the information less comprehensible to consumers." The draft guidance suggested three possible presentations for the brief summary, including the current prescribing information format, an approved patient package insert, or highlights from the physician labeling rule.

In the content study, FDA plans to investigate the role of context in providing useful risk information to consumers. It has been theorized that long lists of minor risks may detract from the understanding of more serious risks, as stated in the draft guidance. Nonetheless, if the risk information is presented with proper supporting context, people may find the information facilitates rather than distracts from the understanding of the risk information. One of the two proposed studies in this notice will investigate the context that may contribute to this facilitation.

In addition to context, format also plays a role in the clarity and understanding of the brief summary. FDA proposes to collect information on the usefulness of different formats suggested in the draft guidance. In addition to the patient package insert, which is usually presented in a question and answer format, FDA proposes to test a consumer-friendly highlights format, as well as a format based on the drug facts labeling used for over-the-counter drugs.

Data from these two studies will converge to allow a better assessment of various ways to present risk information in a print advertisement for a prescription drug.

FDA estimates that 1,800 individuals will need to be screened to obtain a respondent sample of 900 for the content study and that 600 individuals will need to be screened to obtain a respondent sample of 300 for the format study. The screener is expected to take 30 seconds, for a total screener burden of 41 hours. The 1,200 respondents in the two studies will then be asked to respond to a series of questions about the advertisement. We estimate the response burden for each of the two studies to be 20 minutes, for a burden of 396 hours. The estimated total burden for this data collection effort is 437 hours.

In the **Federal Register** of April 25, 2006 (71 FR 23921), FDA published a 60-day notice requesting public comment on the information collection provisions. Seven comments were received, and none were PRA related.

Five comments were from individual citizens, one comment was from AstraZeneca, a member of industry, and

one comment was from a health care coalition, the Clear Language Group. Most of the comments addressed the proposed content study.

The five comments from individual citizens were identical. They stated, "Deny the drug industry petition. Show all side effects." These comments show a lack of understanding of the relevant issues. This proposed information collection is not a pharmaceutical industry petition; it is a research project supported by funds received from the Office of Medical Policy within the Center for Drug Evaluation and Research, part of FDA. The goal of this research is to further the public health by improving the readability and functionality of the brief summary in print ads, an easily accessed forum for information. Research in cognitive psychology overwhelmingly suggests that people have limited capacity for information and cannot process endless lists.[1] Recent research has suggested that providing a small number of the more minor side effects may actually improve the understanding of the benefit-risk tradeoff of the drug as a whole.[2] FDA wants to ensure that the presentation of risk information is in the best interests of consumers. This research will provide empirical evidence to support the optimal presentation of side effects.

In the sixth comment, AstraZeneca supported the proposed research as a method to create more consumer-friendly brief summaries. They requested that the research be delayed, however, until the data from study 1 is collected. If this were not possible, they requested that the comment period remain open until commenters have the ability to look at the questionnaire materials. Study 1 is currently in the field and we expect to have data available by the midpoint of the year. These results will be analyzed in the next several months. Given the interest in the finalization of the brief summary guidance,[3] which in part relies on information from these studies, we cannot delay the development of studies 2 and 3 until data from study 1 are analyzed and interpreted. Questionnaire materials are available for public comment through FDA's Office of Information Review Management. Comments may be submitted to the docket at any time, even after the docket has closed.

The final comment was submitted by Sarah Furnas as a representative of the Clear Language Group, a consortium of plain language consultants, and involved two primary concerns. The first concern regarded our plan to recruit and divide respondents into education groups of completed college or some college or less. This division may limit our ability to make finer distinctions among educational groups. Moreover, Furnas suggests that people who struggle with obesity fall disproportionately into the lower education groups. If FDA chose a division point that represents a fairly high level of education, they may recruit more people from the highest education group, thus leaving out an appropriate proportion of lower education individuals. Furnas suggests using the educational breakdown used by the American Obesity Association: 4+ years of college, some college, high school graduate, and some high school. FDA agrees and will incorporate this suggestion into the questionnaire.

This commenter also expressed concern that the options in our research design require high numeracy and document literacy skills. Furnas suggested that FDA omit some of the design options and perhaps add other, easier options. First, although FDA shares the goal of making documents easier to read and would like to make the brief summary accessible to the greatest number of people possible, at some level, people who have difficulty reading will not seek out a written explanation of risks. In its guidance *Consumer Directed Broadcast Advertisements*,[4] the agency suggested a number of ways complete risk information could be obtained by consumers, including a toll-free telephone number, making this option a good choice for those who have difficulty reading health information.

Consumers who have difficulty reading may not seek out medical information in a print advertisement, especially in its current form. However, the very nature of the information in the brief summary is the communication of risk information which is at its heart probability-based. By limiting their options, FDA not only fails to empirically determine the best option for the greatest number of people, but they may fail to appropriately inform the people who are most likely to read the advertisement and the brief summary. Therefore, FDA is testing ways to better communicate this information.

Second, FDA does not agree that table formats are more difficult to read than lists of information in paragraph format. The over-the-counter labeling change of 1999 (21 CFR 201.66), requiring a presentation of Drug Facts in a table format, has received positive reviews for its improvement over older labels.[5] Moreover, the Nutrition Facts label required as part of the Nutrition Labeling and Education Act of 1990 has also received praise for its easier-to-understand format.[6] These two table-based formats have been in the public domain for several years now, making them familiar to consumers. Nonetheless, FDA has changed its design based on other factors and will not be examining a chart or table format.

FDA acknowledges that placebo may be a fairly complex concept for many people. One of the research goals is to determine whether the addition of context may improve the understandability or usefulness of the brief summary as a whole. The value of an experimental design is that FDA will be able to empirically test whether or not their manipulations have an effect. Therefore, FDA has chosen two other forms of context, the frequency of side effects, and the temporal nature of side-effects, in place of placebo rate. FDA will be able to determine which groups have more or less difficulty with each condition. It is likely that at least some people will value the addition of this information.

In the interest of communicating to as many people as possible, FDA has changed the format of the rate information. Instead of providing this

[1] Lavie, N. (2001). Capacity limits in selective attention: Behavioral evidence and implications for neural activity. In Braun, J., Koch, C., et al. (Eds.), *Visual attention and cortical circuits*. Cambridge, MA: The MIT Press (pp. 49–68); Shapiro, K. (Ed.) (2001). *The limits of attention: Temporal constraints in human information processing*. London: Oxford University Press.

[2] See, e.g., Stotka, J.L., Rotelli, M.D., Dowsett, S.A., Elsner, M.W., Holdsworth, S.M., et al. (2007). A new model for communicating risk information in direct-to-consumer print advertisements. *Drug Information Journal, 41*, 111–127.

[3] See, e.g., *http://www.fda.gov/ohrms/dockets/dockets/05n0354/05N-0354-EC444-Attach-1.pdf*; Washington Legal Foundation response to the Division of Drug Marketing, Advertising, and Communications regarding WellSpring Pharmaceutical Corp. at *http://www.wlf.org/Resources/DDMAC/default.asp*. (FDA has verified the Web site address, but FDA is not responsible for any subsequent changes to the Web site after this document publishes in the **Federal Register**.)

[4] Available at *http://www.fda.gov/cder/guidance/1804fnl.htm*. (Last accessed March 8, 2007.)

[5] For example, the Association of Clinicians for the Underserved states, "These new labels should assist consumers in the selection of Over the Counter (OTC) products by enabling them to assess drugs' risks and benefits more easily." (*http://www.clinicians.org/programsandservices/rxfiles/patient_education_safety.html*) (FDA has verified the Web site address, but FDA is not responsible for any subsequent changes to the Web site after this document publishes in the **Federal Register**.)

[6] Marietta, A.B., Welshimer, K.J., and Anderson, S.L. (1999). Knowledge, attitudes, and behaviors of college students regarding the 1990 Nutrition Label Education Act food labels. *Journal of the American Dietetic Association, 99*, 445–449.

information in percentages, FDA will provide this information as, "x out of 100." FDA thanks this commenter for bringing these issues to their attention.

As a result of the comments, the agency received and some further thought on the design of the studies, FDA has altered the designs somewhat. The following are the revised designs.

Content Study

Design Overview: This study will employ a between-subjects crossed factorial design using a mall-intercept protocol. We will manipulate the minor side effect section, varying the presence of frequency information and the presence of framing, and the efficacy section, varying the presence of frequency information. We are interested in how these changes influence the understanding of the risks of the product as a whole, particularly the more serious risk sections. If these changes enhance or, at the very least, do not detract from the major risks, then these additions of context may be something to include in future brief summaries. In the best case scenario, we find context that enhances the total picture of the drug and does not interfere with the processing of the major risks.

Primary Research Questions

a. Will the presence of information on the frequency of minor side effects influence the readers' comprehension of the major risks? Will the comprehension of major risks vary depending on whether the frequencies are high or low?

b. Will the presence of information on the temporal duration of minor side effects influence the comprehension of the major risks?

c. Will the presence of clinical efficacy information influence readers' comprehension of the major risks? Will the comprehension of the major risks vary depending on whether clinical efficacy is high or low?

d. Will clinical efficacy and frequency of minor side effects interact to influence comprehension of major risks? Will clinical efficacy and temporal duration interact to influence comprehension of major risks?

Procedure: Participants will be shown one advertisement. Then a structured interview will be conducted with each participant to examine a number of important perceptions about the brief summary, including perceived riskiness of the drug, comprehension of information in the brief summary, and perceived usefulness of brief summary information. Finally, demographic and health care utilization information will be collected. Interviews are expected to last approximately 20 minutes. A total of 900 participants will be involved. This will be a one-time (rather than annual) collection of information.

Format Study

Design Overview: This study will employ a between-subjects crossed factorial design using a mall-intercept protocol. Four print advertisements will be created using four different formats: Traditional long format, Question and Answer, Highlights (71 FR 3922, January 24, 2006), and Drug Facts (21 CFR 201.66). As much as possible, the information in the formats will be constant across conditions. Participants who self-identify as being in the target market for the condition will be asked to read a single print advertisement for a new prescription drug. After reading the advertisement, they will be asked questions about their comprehension and evaluation of the information presented in the advertisement. Lastly, participants will be shown all four versions and asked to rate them relative to one another on measures assessing visual appeal, preference, and information accessibility.

Primary Research Questions

a. Will alternative formats influence the comprehension of major risks, behavioral intentions, and/or self-efficacy?

b. Which format will consumers prefer?

Procedure: Participants will be shown one advertisement. Then a structured interview will be conducted with each participant to examine a number of important perceptions about the brief summary, including perceived riskiness of the drug, comprehension of information in the brief summary, and perceived usefulness of brief summary information. Finally, demographic and health care utilization information will be collected. Interviews are expected to last approximately 20 minutes. A total of 300 participants will be involved. This will be a one-time (rather than annual) collection of information.

FDA estimates the burden of this collection of information as follows:

FDA estimates that 1,800 individuals will need to be screened to obtain a respondent sample of 900 for the Content study, and 600 individuals will need to be screened to obtain a respondent sample of 300 for the Format study. The screener is expected to take 30 seconds in each study, for a total screener burden of 41 hours. The 1,200 respondents in the two studies will then be asked to respond to a series of questions about the advertisement. We estimate the response burden for each of the two studies to be 20 minutes, for a burden of 396 hours. The estimated total burden for this data collection effort is 437 hours. The respondent burden is listed in table 1 of this document.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
1,800 (content study: screener)	1	1,800	.017	31
900 (content study: questionnaire)	1	900	.33	297
600 (format study: screener)	1	600	.017	10
300 (format study: questionnaire)	1	300	.33	99
Total				437

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: March 7, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–4556 Filed 3–13–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Home Centered Coordinated Cancer Care System.

Date: April 4, 2007.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6116 Executive Boulevard, Conference Room 706, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Gerald G. Lovinger, PhD, Scientific Review Administrator, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd., Room 8101, Bethesda, MD 20892–8329. 301/496–7987. *lovingeg@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, Quantiative Assay for O6—Carboxymethyl Guanine DNA Adducts.

Date: April 5, 2007.

Time: 12 p.m. to 4 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6116 Executive Boulevard, Conference Room 611, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: C. Michael Kerwin, PhD, MPH, Scientific Review Administrator, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd., Rm. 8057, Bethesda, MD 20892–8329, 301–496–7421. *kerwinm@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, CA 07–032, "Improved Measures of Diet and Physical Activity for the Genes and Environment Initiative (GEI) (UO1)".

Date: April 18–19, 2007.

Time: 9 a.m. to 3:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: Marriott Gaithersburg Washingtonian Center, 951 Washingtonian Boulevard, Gaithersburg, MD 20878.

Contact Person: Thomas M. Vollberg, PhD, Scientific Review Administrator, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd., Room 7142, Bethesda, MD 20892. 301–594–9582. *vollbert@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 7, 2007.

Anna Snouffer,

Acting Director, Officer of Federal Advisory Committee Policy.

[FR Doc. 07–1190 Filed 3–13–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Conference Grants (R13).

Date: April 6, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Valerie L. Prenger, PhD, Scientific Review Administrator, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7214, Bethesda, MD 20892–7924. 301–435–0270. *prengerv@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Ancillary Studies in Clinical Trials.

Date: April 11, 2007.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Yingying Li-Smerin, MD, PhD, Scientific Review Administrator, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7184, Bethesda, MD 20892–7924. 301–435–0277. *lismerin@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: March 6, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–1184 Filed 3–13–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Francisella Tularensis Pathogenesis.

Date: April 4, 2007.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817. (Telephone Conference Call).

Contact Person: Lynn Rust, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892. (301) 402–3938. *lr228v@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 7, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–1187 Filed 3–13–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Neural Basis of Language and Learning.

Date: March 26, 2007.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852. (Telephone Conference Call).

Contact Person: Richard D. Crosland, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Boulevard, Suite 3208, MSC 9529 Bethesda, MD 20892–9529. 301–594–0635. *rc218u@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Epilepsy Review.

Date: March 30, 2007.

Time: 3:30 p.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room B, Bethesda, MD 20892.

Contact Person: Shantadurga Rajaram, PhD, Scientific Review Administrator, Scientific Review Branch, NIH/NINDS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20852. (301) 435–6033. *rajarams@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Edeman Research Center Review.

Date: April 10, 2007.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852. (Telephone Conference Call).

Contact Person: JoAnn McConnell, PhD, Scientific Review Administrator, Scientific Review Branch NIH/NINDS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529. (301) 496–5324. *mcconnej@ninds.nih.gov.*

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: March 7, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–1188 Filed 3–13–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis panel, Minority Biomedical Research Support.

Date: March 30, 2007.

Time: 1:30 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Room 3AN–18, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Brian R. Pike, PhD, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18, Bethesda, MD 20892. 301–594–3907. *pikbr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: March 7, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–1189 Filed 3–13–07; 8:45 am]

BILLING CODE 4140–07–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, P20's RFA AA07001—Population Based Studies.

Date: April 26, 2007.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Lorraine Gunzerath, PhD, MBA, Scientific Review Administrator, National Institute on Alcohol Abuse and Alcoholism, Office of Extramural Activities, Extramural Project Review Branch, 5635 Fishers Lane, Room 3043, Bethesda, MD 20892–9304, 301–443–2369, *lgunzera@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS.)

Dated: March 7, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–1191 Filed 3–13–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, NIDDK PAR 06–113 Urology Applications.

Date: March 30, 2007.

Time: 4 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Daniel F. McDonald, PhD, Scientific Review Administrator, Chief, Renal and Urological Sciences IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892. (301) 435–1215. *mcdonald@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Renal and Urological Sciences Small Business Special Emphasis Panel.

Date: April 4, 2007.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jean Dow Sipe, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4106, MSC 7814, Bethesda, MD 20892. 301–435–1743. *sipej@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Exploratory Research Centers of Excellence for Minority Health Disparities (P20).

Date: May 2–4, 2007.

Time: 6 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Blvd., Bethesda, MD 20817.

Contact Person: Najma Begum, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2175, MSC 7818, Bethesda, MD 20892. 301–435–1243. *begumn@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Exploratory Research Centers of Excellence for Minority Health Disparities (P20).

Date: May 2–4, 2007.

Time: 6 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Bonnie L. Burgess-Beusse, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2191C, MSC 7818, Bethesda, MD 20892. 301–435–1783. *beusseb@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Exploratory Research Centers of Excellence for Minority Health Disparities (P20).

Date: May 2–4, 2007.

Time: 6 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Peter J. Perrin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892. (301) 435–0682. *perrinp@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Exploratory Research Centers of Excellence for Minority Health Disparities (P–20).

Date: May 2–4, 2007.

Time: 6 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Patricia Greenwel, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2174, MSC 7818, Bethesda, MD 20892. 301–435–1169. *greenwep@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group, Biochemistry and Biophysics of Membranes Study Section.

Date: May 30–31, 2007.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.

Contact Person: Nuria E. Assa-Munt, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4164, MSC 7806, Bethesda, MD 20892. (301) 451–1323. *assamunu@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Neurobiology of Motivated Behavior Study Section.

Date: May 31–June 1, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Gamil C. Debbas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7844, Bethesda, MD 20892. (301) 435–1018. *debbasg@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Neural Oxidative Metabolism and Death Study Section.

Date: May 31–June 1, 2007.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.

Contact Person: Carol Hamelink, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5040H, MSC 7850, Bethesda, MD 20892. (301) 451–1328. *hamelinc@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 7, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–1183 Filed 3–13–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, March 14, 2007, 3 p.m. to March 14, 2007, 4:30 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on February 21, 2007, 72 FR 7901–7904.

The meeting will be held March 29, 2007, 10:30 a.m. to 11:45 a.m. The meeting location remains the same. The meeting is closed to the public.

Dated: March 7, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–1185 Filed 3–13–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Mental Illness Stigma.

Date: March 19, 2007.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Anna L. Riley, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7759, Bethesda, MD 20892, 301–435–2889, *rileyann@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business Grant Applications: Immunology.

Date: March 26, 2007.

Time: 8:30 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 25th Street, NW., Washington, DC 20037.

Contact Person: Stephen M. Nigida, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4212, MSC 7812, Bethesda, MD 20892, 301–435–1222. *nigidas@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 7, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–1186 Filed 3–13–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Preparedness Directorate, Center for Faith-based and Community Initiatives Submission for New Collection (Emergency Preparedness Workshop Questionnaire)

AGENCY: Office of the Under Secretary for Preparedness, Center for Faith-based and Community Initiatives, DHS.

ACTION: Proposed new information collection submission for OMB Review; comment request.

SUMMARY: The Department of Homeland Security, Office of the Under Secretary for Preparedness, Center for Faith-based and Community Initiatives has submitted the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35).

DATES: Comments are encouraged and will be accepted until May 14, 2007. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Comments and questions about this Information Collection Request should be forwarded to the Center for Faith-based and Community Initiatives, Attn: Dana Ayers for the Department of Homeland Security, Office of the Undersecretary for Preparedness, 3801 Nebraska Avenue Complex, Building 17, Washington, DC 20528.

FOR FURTHER INFORMATION CONTACT: Dana Ayers, via electronic mail at *dana.ayers1@dhs.gov* or 202–447–3343 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: The Department of Homeland Security (DHS), Office of the Under Secretary for Preparedness, Center for Faith-based and Community Initiatives will be conducting outreach workshops in urban areas across the United States to educate faith-based and community organizations about emergency preparedness and response and to bring these organizations together with their State and local emergency management officials. To measure the effectiveness of these workshops, CFBCI will request attendees to complete a one page

questionnaire on the date of the workshop, and a follow up questionnaire six months after the workshop. The questionnaire will request information about the size of the organization, the organization's preparedness status, its knowledge of local emergency management personnel, and its involvement in emergency preparedness and response activities.

The Office of Management and Budget is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

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

Analysis

Agency: Department of Homeland Security, Office of the Under Secretary for Preparedness, Center for Faith-based and Community Initiatives.

Title: Emergency Preparedness Workshop Questionnaire.

OMB Number: 1670–NEW.

Frequency: Twice for each workshop; Once at the workshop and a follow-up six months after the workshop.

Affected Public: Faith-based and community organization representatives who attend Preparedness Workshops sponsored by DHS Center for Faith-based and Community Initiatives.

Number of Respondents: 500.

Estimated Time Per Respondent: 10 minutes.

Total Burden Hours: 1 hour.

Total Burden Cost (capital/startup): $0.00.

Total Burden Cost (operating/maintaining): $0.00.

Charlie Church,

Chief Information Officer, Preparedness Directorate, Homeland Security.

[FR Doc. E7–4569 Filed 3–13–07; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[CGD08–07–005]

Houston/Galveston Navigation Safety Advisory Committee; Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Solicitation for membership.

SUMMARY: This notice requests individuals interested in serving on the Houston/Galveston Navigation Safety Advisory Committee (HOGANSAC) to submit their application for membership to Commander, United States Coast Guard Sector Houston/Galveston. HOGANSAC provides advice and makes recommendations to the Coast Guard on matters relating to the safe navigation of vessels to and from the Ports of Galveston, Houston, and Texas City, and throughout Galveston Bay, Texas.

DATES: Applications for membership must be complete and postmarked no later than March 30, 2007.

ADDRESSES: You may request an application form by writing to Commander(spw), USCG Sector Houston-Galveston, 9640 Clinton Drive, Houston, TX 77029; by calling LTjg Kevin Cooper at (713–678–9001); by submitting a faxed request to 713–671–5156; or by visiting HOGANSAC's Web site *http://www.homeport.uscg.mil* under: Missions > Ports and Waterways > Safety Advisory Committees > HOGANSAC. All application forms must be returned to the following address: Commander, USCG Sector Houston/Galveston (spw), Attn: HOGANSAC Executive Secretary, 9640 Clinton Drive, Houston, TX 77029.

FOR FURTHER INFORMATION CONTACT: CDR Jerry C. Torok, Executive Secretary of HOGANSAC at (713–671–5164) or LTjg Kevin Cooper, Assistant to the Executive Secretary of HOGANSAC at (713–678–9001).

SUPPLEMENTARY INFORMATION: HOGANSAC is a Federal advisory committee subject to the provisions of 5 U.S.C. App. 2. This committee provides local expertise to the Secretary of Homeland Security and the Coast Guard on such matters as communications, surveillance, traffic control, anchorages, aids to navigation, and other related topics dealing with navigation safety in the Houston/Galveston area. The committee normally meets at least three times a year at various locations in the Houston/Galveston area. Members serve voluntarily, without compensation from the Federal Government for salary, travel, or per diem. The term of membership is for two years. Individuals appointed by the Secretary based on applications submitted in response to this solicitation will serve from May 2007 until May 2009.

By law, the Committee consists of nineteen members who have particular expertise, knowledge, and experience regarding the transportation, equipment, and techniques that are used to ship cargo and to navigate vessels in the inshore and the offshore waters of the Gulf of Mexico. Committee members represent a wide range of constituencies. There are twelve membership categories: (1) Two members who are employed by the Port of Houston Authority or have been selected by that entity to represent them; (2) two members who are employed by the Port of Galveston or the Texas City Port Complex or have been selected by those entities to represent them; (3) two members from organizations that represent shipowners, stevedores, shipyards, or shipping organizations domiciled in the State of Texas; (4) two members representing organizations that operate tugs or barges that utilize the port facilities at Galveston, Houston, and Texas City; (5) two members representing shipping companies that transport cargo from the ports of Galveston and Houston on liners, break bulk, or tramp steamer vessels; (6) two members representing those who pilot or command vessels that utilize the ports of Galveston, Houston and Texas City; (7) two at-large members who may represent a particular interest group but who use the port facilities at Galveston, Houston or Texas City; (8) one member representing labor organizations involved in the loading and unloading of cargo at the ports of Galveston or Houston; (9) one member representing licensed merchant mariners other than pilots, who perform shipboard duties on vessels which utilize the port facilities of Galveston, Houston or Texas City; (10) one member representing environmental interests; (11) one member representing the general public and (12) one member representing recreational boaters.

In support of the policy of the Department of Homeland Security on gender and ethnic diversity, the Coast Guard encourages applications from qualified women and members of minority groups. Individuals nominated to represent the general public will be required to complete a Confidential Financial Disclosure Report (OGE Form 450). Neither the report nor the information it contains may be released to the public, except under an order issued by a Federal court or as

otherwise provided under the Privacy Act (5 U.S.C. 552a).

Dated: February 26, 2007.

J.R. Whitehead,

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

[FR Doc. E7–4585 Filed 3–13–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2007–27451]

National Boating Safety Advisory Council

AGENCY: Coast Guard, DHS.

ACTION: Notice of meetings.

SUMMARY: The National Boating Safety Advisory Council (NBSAC) and its subcommittees on boats and associated equipment, prevention through people, and recreational boating safety strategic planning will meet to discuss issues relating to recreational boating safety. All meetings will be open to the public.

DATES: NBSAC will meet on Saturday, April 21, 2007, from 8 a.m. to 12:30 p.m., and on Monday, April 23, 2007, from 8 a.m. to 3:30 p.m. The Prevention through People Subcommittee will meet on Saturday, April 21, 2007, from 1:30 p.m. to 4:30 p.m. The Recreational Boating Safety Strategic Planning Subcommittee will meet on Sunday, April 22, 2007, from 8 a.m. to 12 p.m. The Boats and Associated Equipment Subcommittee will meet on Sunday, April 22, 2007, from 1 p.m. to 4:30 p.m. These meetings may close early if all business is finished. On Sunday, April 22, 2007, a subcommittee meeting may start earlier if the preceding subcommittee meeting closed early.

ADDRESSES: NBSAC will meet at the Grand River Center, 500 Bell St, Dubuque, IA 52001. The subcommittee meetings will be held at the same address. Send written material and requests to make oral presentations to Mr. Jeff Ludwig, Executive Secretary of NBSAC, Commandant (CG–3PCB–1), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. This notice is available on the Internet at *http://dms.dot.gov* or the Office of Boating Safety's Web site at *http://www.uscgboating.org/nbsac/nbsac.htm.*

FOR FURTHER INFORMATION CONTACT: Jeff Ludwig, Executive Secretary of NBSAC, telephone 202–372–1061, fax 202–372–1932.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Tentative Agendas of Meetings: National Boating Safety Advisory Council (NBSAC):

(1) Remarks—Mr. James P. Muldoon, NBSAC Chairman; Rear Admiral Brian Salerno, Director of Inspections & Compliance.

(2) Swearing in of recent appointees (includes new members and continued members).

(3) Chief, Office of Boating Safety update on NBSAC Resolutions and Recreational Boating Safety Program report.

(4) Executive Director's report.

(5) Chairman's session.

(6) TSAC Liaison's report.

(7) NAVSAC Liaison's report.

(8) Coast Guard Auxiliary report.

(9) National Association of State Boating Law Administrators report.

(10) Update on development of Vessel Identification System.

(11) Report on upcoming national boating survey.

(12) Prevention Through People Subcommittee report.

(13) Boats and Associated Equipment Subcommittee report.

(14) Recreational Boating Safety Strategic Planning Subcommittee report.

A more detailed agenda can be found at *http://www.uscgboating.org/nbsac/nbsac.htm,* after April 3, 2007.

Prevention Through People Subcommittee: Discuss current regulatory projects, grants, contracts, and new issues affecting the prevention of boating accidents through outreach and education of boaters.

Boats and Associated Equipment Subcommittee: Discuss current regulatory projects, grants, contracts, and new issues affecting boats and associated equipment.

Recreational Boating Safety Strategic Planning Subcommittee: Discuss current status of the strategic planning process and any new issues or factors that could impact, or contribute to, the development of the strategic plan for the recreational boating safety program.

Procedural: All meetings are open to the public. At the Chairs' discretion, members of the public may make oral presentations during the meetings. If you would like to make an oral presentation at a meeting, please notify the Executive Secretary of your request no later than Friday, March 30, 2007. Written material for distribution at a meeting should reach the Coast Guard no later than Thursday, April 5, 2007. If you would like a copy of your material distributed to each member of the committee or subcommittee in advance of a meeting, please submit 30 copies to the Executive Director no later than Thursday, April 5, 2007.

Information on Services for Individuals with Disabilities: For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the Executive Secretary of NBSAC as soon as possible.

Dated: March 7, 2007.

Brian M. Salerno,

Rear Admiral, U.S. Coast Guard, Director of Inspections and Compliance.

[FR Doc. E7–4586 Filed 3–13–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5118–N–01]

Notice of Proposed Information Collection: Comment Request Section 108 Loan Guarantee Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* May 14, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Lillian Deitzer, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8001, Washington, DC 20410 or *Lillian_Deitzer@hud.gov.*

FOR FURTHER INFORMATION CONTACT: Paul Webster, Director, Financial Management Division, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–1871 (this is not a toll-free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork

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

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Section 108 Loan Guarantee Program Application.

OMB Control Number, if applicable: 2506–0161.

Description of the Need for the Information and Proposed Use: This information is necessary to render judgment on the eligibility of the activities proposed to be financed with Section 108 loan guarantee assistance and to ensure that the loan guarantee is an acceptable risk to the Federal government. Information collected pursuant to the application requirements will be reviewed and analyzed to determine compliance with statutory requirements on eligibility and compliance with national objectives requirements of the Community Development Block Grant program.

Agency Form Numbers, if Applicable: None.

Estimation of the Total Numbers of Hours Needed to Prepare the Information Collection Including Number of Respondents, Frequency of Response, and Hours of Response: the estimated number of respondents is 50, generating approximately 50 annual responses; the estimated time to prepare the information collection is 125 hours; and the estimated total annual burden is 6,250.

Status of the Proposed Information Collection: This is an extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: March 5, 2007.

Pamela H. Patenaude,

Assistant Secretary for Community Planning and Development.

[FR Doc. E7–4564 Filed 3–13–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications.

SUMMARY: The following applicants have applied for scientific research permits to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended.

DATES: To ensure consideration, written comments must be received on or before April 13, 2007.

ADDRESSES: Written comments should be submitted to the Chief, Endangered Species Division, Ecological Services, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act. Documents will be available for public inspection, by appointment only, during normal business hours at the U.S. Fish and Wildlife Service, 500 Gold Ave. SW., Room 4102, Albuquerque, New Mexico. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Chief, Endangered Species Division, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103, (505) 248–6920.

SUPPLEMENTARY INFORMATION:

Permit No. TE–143703

Applicant: Walther, Jeremy, Austin, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for the endangered golden-cheeked warbler (*Dendroica chrysoparia*) within Travis County, Texas.

Permit No. TE–143922

Applicant: Texas Environmental Studies & Analysis, LLC, Kingsville, Texas

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for the endangered black-capped vireo (*Vireo atricapillus*) and golden-cheeked warbler (*Dendroica chrysoparia*), within Texas.

Permit No. TE–144063

Applicant: Bureau of Reclamation, Technical Services Center, Denver, Colorado

Applicant requests a new permit for research and recovery purposes to conduct telemetry studies on the endangered razorback sucker (*Xyranchen texanus*) in the Colorado River between Davis and Parker Dams, and in Lake Havasu, Arizona.

Permit No. TE–103076

Applicant: Transcon Infrastructure, Mesa, Arizona

Applicant requests a permit amendment for research and recovery purposes to conduct surveys for Chiricahua leopard frog (*Rana chiricahuensis*) within the species' historic range in Arizona.

Permit No. TE–144001

Applicant: Judith Ramirez, Arizona

Applicant requests a new permit for research and recovery purposes to mist net and trap lesser long-nosed bats (*Leptonycteris curasoaed yerbabuenae*) in order to obtain saliva/cheek cells with mouth swabs for DNA extraction within Arizona.

Permit No. TE–144755

Applicant: Reagan Smith Energy Solutions, Inc., Oklahoma, Arkansas, Texas, Kansas, Nebraska

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys and bait away for the American burying beetle (*Nicrophorus americanus*) within Oklahoma, Arkansas, Texas, Kansas, and Nebraska.

Permit No. TE–146407

Applicant: Belaire Environmental, Rockport, Texas

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for the following endangered species within Texas: golden-cheeked warbler (*Dendroica chrysoparia*), whooping crane (Grus americana), Kemp's ridley sea turtle (*Lepidochelys kempii*), and hawksbill sea turtle (*Eretmochelys imbricata*).

Permit No. TE–146537

Applicant: New Mexico State Land Office, New Mexico

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for the Southwestern willow flycatcher (*Empidonax traillii extimus*) and the Chiricahua leopard frog (*Rana chiricahuensis*) within New Mexico.

Permit No. TE–020844

Applicant: Engineering & Envornmental Consultants, Inc., Tucson, Arizona

Applicant requests a permit amendment for research and recovery purposes to collect, propagate, and reintroduce Huachuca water umbel (Lilaeopsis schaffneriana spp recurva), in the San Pedro Riparian National Conservation Area (SPRNCA) and on Fort Huachuca in Southern Arizona.

(Authority: 16 U.S.C. 1531, *et seq.*)

Dated: February 6, 2007.

Juliana Scully,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. E7–4638 Filed 3–13–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

National Park Service

60-Day Notice of Intention To Request Clearance of Collection of Information; Opportunity for Public Comment

AGENCY: Department of the Interior, National Park Service.

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3507) and 5 CFR 1320, Reporting and Recordkeeping Requirements, the National Park Service invite public comments on eight proposed information collection requests (ICR) for the Land and Water Conservation Fund (LWCF) and Urban Park and Recreation Recovery (UPARR) grant programs.

1. *LWCF Description and Notification (DNF) Form.* The DNF is necessary to provide data input into the NPS Automated Project information system which provides timely data on projects funded over the life of the LWCF program.

2. *LWCF Program Performance Report.* As required by OMB Circular A–102, grantees must submit performance requirements which describe the status of the work required under the project scope.

3. *LWCF Project Agreement and Amendment Form.* The Project Agreement and Amendment forms set forth the obligations assumed by the State through its acceptance of Federal assistance under the LWCF Act and any special terms and conditions.

4. *LWCF On-Site Inspection Report.* The On-Site Inspection Reports are used to insure compliance by grantees with applicable Federal and program guidelines, and to insure the continued viability of the funded site.

5. *LWCF Conversion of Use Provisions.* To convert assisted sites to other than public outdoor recreation, LWCF project sponsors must provide relevant information necessary to comply with Section 6(f)(3) of the LWCF Act of 1965.

6. *UPARR Project Performance Report.* As required by OMB Circular A–102, grant recipients must submit performance reports which describe the status of the work required under the project scope.

7. *UPARR Conversion of Use Provisions.* To convert assisted sites to other than public recreation, UPARR project sponsors must provide relevant information necessary to comply with the section 1010 of the UPARR Act of 1978.

8. *UPARR Project Agreement and Amendment Form.* The Project agreement and amendment forms set forth the obligations assumed by grant recipients through their acceptance of Federal Assistance under the UPARR Act and any special terms and conditions.

DATES: Public comments on these eight proposed Information Collection Request (ICRs) will be accepted on or before May 14, 2007.

ADDRESSES: Send comments to Michael D. Wilson, Chief or Sylvia H. Wood, Outdoor Recreation Planner, State and Local Assistance Programs Division, National Park Service (2225), 1849 C Street, NW., Washington, DC 20240–0001 or via e-mail at *michael_d_wilson@nps.gov* or *Sylvia_Wood@nps.gov*. Also, you may send a copy of your comments to Leonard Stowe, Information Collection Clearance Officer, NPS, 1849 C St., NW. (2605), Washington, DC 20240, or by e-mail at *Leonard_Stowe@nps.gov*. All responses to this notice will be summarized and included in the requests for Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Sylvia H. Wood, Outdoor Recreation Planner, State and Local Assistance Programs Division, 1849 C St., NW. (2225), Washington, DC 20240, via phone at 202/354–6914, via e-mail at *Sylvia_Wood@nps.gov*, or via fax at 202/354–6900. You are entitled to a copy of the entire ICR package free of charge.

SUPPLEMENTARY INFORMATION:

Expiration Date: May 31, 2007.

Type of Request: Extension of currently approved information collections.

Title: LWCF Description and Notification Form (DNF).

Form: NPS 10–903

OMB Number: 1024–0031.

Expiration Date: May 31, 2007.

Type of Request: Data Input.

Description of Need: Provision of computer data.

Description of Respondents: 56 State Governments, DC and Territories.

Estimated Annual; Reporting Burden: 450 hours.

Estimated Average Burden Hours Per Response: 1.0 hours.

Estimated Frequency of Response: 450 nationwide.

Title: LWCF Program Performance Report.

Form: None.

OMB Number: 1024–0032.

Expiration Date: May 31, 2007.

Type of Request: Performance report describing project status.

Description of Need: For monitoring project status.

Description of Respondents: 56 State Governments, DC and Territories.

Estimated Annual Reporting Burden: 700 hours.

Estimated Average Burden Hours Per Response: 1.0 hours.

Estimated Frequency of Response: 700 nationwide.

Title: LWCF Project Agreement and Amendment Forms.

Form: NPS 10–902 and 10–902a, respectively.

OMB Number: 1024–0033.

Expiration Date: May 31, 2007.

Type of Request: Grant agreement.

Description of Need: Sets forth conditions of the grant award.

Description of Respondents: 56 State Governments, DC and Territories.

Estimated Annual Reporting Burden: 1,350 hours.

Estimated Average Burden Hours Per Response: 3.0 hours.

Estimated Frequency of Response: 450 nationwide.

Title: LWCF On-Site Inspection Report.

Form: None.

OMB Number: 1024–0034.

Expiration Date: May 31, 2007.

Type of Request: Site condition/comment checklist.

Description of Need: To assure program/grant/Federal compliance.

Description of Respondents: 56 State Governments, DC and Territories.

Estimated Annual Reporting Burden: 3,700 hours.

Estimated Average Burden Hours Per Response: 0.5 hours.

Estimated Frequency of Response: 7,400 nationwide.

Title: LWCF Conversion of Use Provisions.

Form: None.
OMB Number: 1024–0047.
Expiration Date: May 31, 2007.
Type of Request: Application to substitute replacement property for the funded site.
Description of Need: Compliance with LWCF Act Section 6(f)(3).
Description of Respondents: 56 State Governments, DC and Territories.
Estimated Annual Reporting Burden: 1,750 hours.
Estimated Average Burden Hours Per Response: 35 hours.
Estimated Frequency of Response: 50 nationwide.

Title: UPARR Project Performance Report.
Form: None.
OMB Number: 1024–0028.
Expiration Date: May 31, 2007.
Type of Request: Performance report describing project status.
Description of Need: For monitoring project status.
Description of Respondents: Urban cities and counties.
Estimated Annual Reporting Burden: 246 hours.
Estimated Average Burden Hours Per Response: 1.5 hours.
Estimated Frequency of Response: 164 nationwide.

Title: UPARR Conversion of Use Provisions.
Form: None.
OMB Number: 1024–0048.
Expiration Date: May 31, 2007.
Type of Request: Application to substitute replacement property for the funded site.
Description of Need: Compliance with UPARR Act Section 1010.
Description of Respondents: Urban cities and counties.
Estimated Annual Reporting Burden: 75 hours.
Estimated Average Burden House Per Response: 25 hours.
Estimated Frequency of Response: 3 nationwide.

Title: UPARR Project Agreement and Amendment Forms.
Form: NPS 10–912 and 10–915, respectively.
OMB Number: 1024–0089.
Expiration Date: May 31, 2007.
Type of Request: Grant agreement
Description of Need: Set forth conditions of the grant award.
Description of Respondents: Urban cities and counties.
Estimated Annual Reporting Burden: 20 hours.
Estimated Average Burden House Per Response: 1.0 hours.
Estimated Frequency of Response: 20 nationwide.

Comments are invited on (1) The practical utility of the information being gathered; (2) the accuracy of the burden hour estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden to respondents, including use of automated information collection techniques or other forms of information technology. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: March 5, 2007.

Leonard E. Stowe,

NPS, Information Collection Clearance Officer.

[FR Doc. 07–1180 Filed 3–13–07; 8:45 am]

BILLING CODE 4310–EM–M

DEPARTMENT OF THE INTERIOR

National Park Service

Chesapeake and Ohio Canal National Historical Park; Notice of Public Meeting

AGENCY: Department of the Interior, National Park Service, Chesapeake and Ohio Canal National Historical Park.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that a meeting of the Chesapeake and Ohio Canal National Historical Park Advisory Commission will be held at 9:30 a.m., on Friday, April 13, 2007, at the Chesapeake and Ohio Canal National Historical Park Headquarters, 1850 Dual Highway, Hagerstown, Maryland 21740.

DATES: Friday, April 13, 2007.

ADDRESSES: Chesapeake and Ohio Canal National Historical Park Headquarters, 1850 Dual Highway, Hagerstown, Maryland 21740.

FOR FURTHER INFORMATION CONTACT: Kevin Brandt, Superintendent, Chesapeake and Ohio Canal National Historical Park, 1850 Dual Highway, Suite 100, Hagerstown, Maryland 21740, telephone: (301) 714–2201.

SUPPLEMENTARY INFORMATION: The Commission was established by Pub. L. 91–664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Mrs. Sheila Rabb Weidenfeld, Chairperson
Mr. Charles J. Weir
Mr. Barry A. Passett
Mr. James G. McCleaf II
Mr. John A. Ziegler
Mrs. Mary E. Woodward
Mrs. Donna Printz
Mrs. Ferial S. Bishop
Ms. Nancy Long
Mrs. Jo Reynolds
Dr. James H. Gilford
Brother James Kirkpatrick
Ms. Mary Ann D. Moen
Dr. George E. Lewis, Jr.
Mr. Charles D. McElrath
Ms. Patricia Schooley
Mr. Jack Reeder
Ms. Merrily Pierce

Topics that will be presented during the meeting include:

1. Update on park operations.
2. Update on major construction/development projects.
3. Update on partnership projects.
4. Subcommittee Reports.

The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed. Persons wishing further information concerning this meeting, or who wish to submit written statement, may contact Kevin Brandt, Superintendent, Chesapeake and Ohio Canal National Historical Park. Minutes of the meeting will be available for public inspection six weeks after the meeting at Chesapeake and Ohio Canal National Historical Park Headquarters, 1850 Dual Highway, Suite 100, Hagerstown, Maryland 21740.

Dated: January 23, 2007.

Kevin D. Brandt,

Superintendent, Chesapeake and Ohio Canal National Historical Park.

[FR Doc. 07–1179 Filed 3–13–07; 8:45 am]

BILLING CODE 4310–6V–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Preservation Technology and Training Board—National Center for Preservation Technology and Training: Meeting

AGENCY: National Park Service, U.S. Department of the Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory

Committee Act (FACA) (5 U.S.C. Appendix (1988)), that the Preservation Technology and Training Board (Board) of the National Center for Preservation Technology and Training (NCPTT), National Park Service will meet on Wednesday and Thursday, April 4–5, 2007, in Natchitoches, Louisiana.

The Board was established by Congress to provide leadership, policy advice, and professional oversight to the National Park Service's National Center for Preservation Technology and Training (National Center) in compliance with Section 404 of the National Historic Preservation Act of 1966, as amended, (16 U.S.C. 470x–2(e)).

The Board will meet at Lee H. Nelson Hall, the headquarters of NCPTT, at 645 University Parkway, Natchitoches, LA 71457—telephone (318) 356–7444. The meeting will run from 9 a.m. to 5 p.m. on April 4 and from 9 a.m. to 12 p.m. on April 5.

The Board's meeting agenda will include: review and comment on National Center FY2006 accomplishments and operational priorities for FY2007; FY2007 and FY2008 National Center budget and initiatives; proposed Wingspread Conference on Sustainability in Preservation; revitalization of the Center's Friends group, and Board workgroup reports.

The Board meeting is open to the public. Facilities and space for accommodating members of the public are limited, however, and persons will be accommodated on a first come, first served basis. Any member of the public may file a written statement concerning any of the matters to be discussed by the Board.

Persons wishing more information concerning this meeting, or who wish to submit written statements, may contact: Mr. Kirk A. Cordell, Executive Director, National Center for Preservation Technology and Training, National Park Service, U.S. Department of the Interior, 645 University Parkway, Natchitoches, LA 71457—telephone (318) 356–7444. In addition to U.S. Mail or commercial delivery, written comments may be sent by fax to Mr. Cordell at (318) 356–9119.

Minutes of the meeting will be available for public inspection no later than 90 days after the meeting at the office of the Executive Director, National Center for Preservation Technology and Training, National Park Service, U.S. Department of the Interior, 645 University Parkway, Natchitoches, LA 71457—telephone (318) 356–7444.

Dated: February 21, 2007.

Kirk A. Cordell,

Executive Director, National Center for Preservation Technology and Training, National Park Service.

[FR Doc. E7–4640 Filed 3–13–07; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Assessment of Suitability and Non-Suitability for Further Study of Lands Within the Mineral King Addition, the Chimney Rock (AKA Jennie Lakes) Addition, and the Dillonwood Addition of Sequoia and Kings Canyon National Parks for Consideration as Wilderness Areas

SUMMARY: Pursuant to the California Wilderness Act of 1984, and in accordance with National Park Service (NPS) Management Policies 2006 section 6.2.1, the NPS has completed a Wilderness Suitability Assessment (assessment) to determine if the Mineral King, Chimney Rock (AKA Jennie Lakes), and Dillonwood additions to Sequoia and Kings Canyon National Parks meet criteria indicating suitability for preservation as wilderness. The assessment divided the Mineral King addition into two segments, the "backcountry" or undeveloped/unroaded segment, and the "developed" segment, which includes the Mineral King Road and its associated developments. Each of these two segments was separated evaluated for wilderness suitability.

The assessment found that the "backcountry" segment of the Mineral King Addition, and the Chimney Rock Addition: (1) Are predominantly roadless and undeveloped; (2) are greater than 5000 acres in size or of sufficient size as to make practicable their preservation and use in an unimpaired condition; and (3) meet the five wilderness character criteria listed in the 2006 NPS Management Policies.

The assessment also found that the "developed" segment of the Mineral King Addition, and the Dillonwood Addition: (1) Are not predominantly roadless and undeveloped; (2) are not greater than 5000 acres in size or of sufficient size as to make practicable their preservation and use in an unimpaired condition; and (3) do not meet the five wilderness character criteria listed in the 2006 NPS Management Policies.

Based on the findings of this Assessment, the NPS has concluded that the "backcountry" segment of the Mineral King Addition and the Chimney Rock Addition meet the criteria necessary for wilderness designation and therefore warrant further study for inclusion in wilderness.

The NPS has also concluded that based on the findings of this Assessment, the "developed" segment of the Mineral King Addition and the Dillonwood Addition do not meet the criteria necessary for wilderness designation and therefore do not warrant further study for inclusion in wilderness. A transition zone between the Suitable (non-developed) and Non-Suitable (developed) segments in the Mineral King Addition, to allow for existing non-wilderness uses, is appropriate to consider in boundary delineation during the wilderness study process.

ADDRESSES: A copy of the Wilderness Suitability Assessment can be obtained by writing to: Superintendent, Attention: Wilderness Suitability Assessment, Sequoia and Kings Canyon National Parks 47050 Generals Highway, Three Rivers, CA 93271.

FOR FURTHER INFORMATION CONTACT: Requests for further information on the Wilderness Suitability Assessment should be directed to: Wilderness Coordinator, Sequoia and Kings Canyon National Parks, 47050 Generals Highway, Three Rivers, CA 93271.

SUPPLEMENTARY INFORMATION: These actions are in accordance with long standing policy and law. The Wilderness Act of 1964 and NPS Management Policies (2006; *Chapter 6, Wilderness Preservation*) require that the National Park Service review roadless and undeveloped areas, including new areas or expanded boundaries within the National Park system to determine whether they are suitable or not suitable for preserving as wilderness.

The assessment standards outlined in the 2006 NPS Management Policies to determine if a roadless, undeveloped area is suitable for preservation as wilderness are that it is over 5000 acres in size or of sufficient size to make practicable its preservation and use in an unimpaired condition, and meets five wilderness character criteria: (1) The earth and its community of life are untrammeled by humans, where humans are visitors and do not remain; (2) the area is undeveloped and retains its primeval character and influence, without permanent improvements or human habitation; (3) the area generally appears to have been affected primarily by the forces of nature, with the imprint of humans' work substantially unnoticeable; (4) the area is protected and managed so as to preserve its

natural condition; and (5) the area offers outstanding opportunities for solitude or a primitive and unconfined type of recreation.

As part of the Wilderness Suitability Assessment, the parks solicited public input on the suitability of the subject area for designation as Wilderness: a press release was sent out on August 12, 2002 informing the public of the process with a description of the parcels, the criteria that need to be meet to merit inclusion, and an intitial September 27, 2002 closing date; in concert with the distribution of the press release, some 3,200 copies of the release were mailed to interested individuals and groups on the park's General Management Plan mailing list. The public comment period was then extended to October 18, 2002.

Dated: March 6, 2007.

Daniel N. Wenk,

Deputy Director.

[FR Doc. 07–1181 Filed 3–13–07; 8:45 am]

BILLING CODE 4312–69–M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–597]

In the Matter of Certain Bassinet Products; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 9, 2007, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Arm's Reach Concepts, Inc. of Malibu, California. The complaint alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain bassinet products by reason of infringement of U.S. Patent Nos. 6,931,677 and Re. 39,136. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and a permanent cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

FOR FURTHER INFORMATION CONTACT: Erin Joffre, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2550.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2006).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on March 8, 2007, ordered that:

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain bassinet products by reason of infringement of one or more of claims 1–2, 5, 10–14, 16, and 18–19 of U.S. Patent No. 6,931,677 and claims 1–2, 10, 15–16, 24, 29–31, and 48–49 of U.S. Patent No. Re. 39,136, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Arm's Reach Concepts, Inc., 27162 Sea Vista Drive, Malibu, California 90625.

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the complaint is to be served: Simplicity, Inc., 501 South Ninth Street, Reading, Pennsylvania 19602.

(c) The Commission investigative attorney, party to this investigation, is Erin Joffre, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Honorable Charles E. Bullock is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of the respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: March 8, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–4656 Filed 3–13–07; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Emergency Review; Comment Request

March 7, 2007.

The Department of Labor has submitted the following (see below) information collection request (ICR), utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act (PRA) of 1995 (Pub.L. 104–13, 44 U.S.C. Chapter 35). OMB approval has been requested by March 16, 2007. A copy of this ICR, with applicable supporting documentation, may be obtained by accessing it on:

http://www.reginfo.gov/public/do/PRAMain, or by calling the Department of Labor Departmental Clearance Officer, Ira Mills, on 202–693–4122.

Comments and questions about the ICR listed below should be submitted to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment and Training Administration (ETA), Office of Management and Budget, Room 10235, Washington, DC 20503 (202–395–7316), and received prior to the requested OMB approval date.

The Office of Management and Budget is particularly interested in comments which:

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

Agency: Employment and Training Administration.

Title: Evaluation of State Implementation of Section 303(k) of the Social Security Act.

OMB Number: 1205–0NEW.

Frequency: One-time Survey.

Affected Public: State Government.

Type of Response: Reporting.

Number of Respondents: 53.

Estimated Time Per Respondent: 2 hours.

Total Burden Hours: 106.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintaining): 0.

Description: The collection of this information is necessary to examine state implementation of section 303(k) of the Social Security Act (SSA) as to (1) status and effectiveness of state actions to meet the requirement of the law and operation guidance, and (2) whether the Secretary of Labor (Secretary) should recommend Congressional action to make revisions to the law. On August 9, 2004, Public Law (Pub.L.) 108–295, the " State Unemployment Tax Act (SUTA) Dumping Prevention Act of 2004" (Act) was enacted which amended section 303(k) of the SSA by establishing a minimum nationwide standard for curbing a unemployment compensation tax rate manipulation schemes known as SUTA dumping. The Act requires the Secretary of Labor to conduct a study of state implementation and report to Congress by July 15, 2007 at section 2, F(b)(1). ETA now requests emergency approval to enable ETA's contractor sufficient time to distribute, collect, and analyze the state survey results and incorporate them into the study findings before the July 15, 2007, statutorily mandated submission date for the Secretary's report to Congress. The timing of the survey design and review request corresponds with the states' implementation of the detection systems, which began after enactment of the Federal law. If the survey design and distribution predated the implementation of state detection systems, states would be unable to provide useful data on the status and effectiveness of state actions to meet the requirement(s) of the Federal law and operation guidance.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. E7–4567 Filed 3–13–07; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of February 26 through March 2, 2007.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (*i.e.*, conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) of the Trade Act have been met.

TA–W–60,859; Eaton Corporation, Aerospace Division, Phelps, NY: January 30, 2006.

TA–W–60,806; Berwick Offray LLC, Berwick Division, Berwick, PA: July 8, 2006.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W–60,885; Johnson Controls, Inc., Automotive Division, Hudson, WI: February 1, 2006.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) of the Trade Act have been met.

None.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–60,789; WestPoint Home, Inc., Transportation Center, Valley, AL: January 19, 2006.

TA–W–60,799; Ecoquest Holding Corporation, Greeneville, TN: January 19, 2006.

TA–W–60,871; Forefront Group, Inc., Assembly Group, Springfield, TN: January 16, 2006.

TA–W–60,941; Hoover Precision Products, Inc., A Subsidiary of TBK Holdings, Incorporated, East Granby, CT: February 2, 2006.

TA–W–60,953; Broyhill Furniture Industries, Inc., Lenoir Chair #55, Central Fabric Division, Lenoir, NC: January 7, 2006.

TA–W–60,703; Thyssenkrupp Budd, Detroit, MI: December 13, 2005.

TA–W–60,805; Saxonburg Ceramics, Inc., Saxonburg, PA: January 19, 2006.

TA–W–60,812; Sloma Holdings, Inc., d/b/a J.S. Mold and Die, Byron Center, MI: January 19, 2006.

TA–W–60,935; Georgia Narrow Fabrics, Jessup, GA: January 26, 2006.

TA–W–60,665; American and Efird, Inc., d/b/a Robison Anton Textile Co., Formerly Robison Anton Textile Co., Clarks Summit, PA: December 20, 2005.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–60,764; Lear Corporation, Interior Systems Division, Madisonville, KY: January 12, 2006.

TA–W–60,814; Pall Life Sciences, Division of Gelman Sciences, Inc., Ann Arbor, MI: January 19, 2006.

TA–W–60,824; Hamilton Sundstrand, Rockford Manufacturing Group, Rockford, IL: January 19, 2006.

TA–W–60,852; Rolls-Royce Energy Systems, Inc., Machine Shop, Mount Vernon, OH: January 29, 2006.

TA–W–60,860; Stabilus, Inc., Gastonia, NC: February 19, 2007.

TA–W–60,877; SYZYGY, Inc., Subsidiary of Kimberly-Clark Corporation, Waco, TX: January 31, 2006.

TA–W–60,889; Forney Corporation, A Subsidiary of United Technologies, Carrollton, TX: January 31, 2006.

TA–W–60,930; Helikon Furniture LLC, Taftville, CT: February 8, 2006.

TA–W–60,986; Sardelli International LLC, Providence, RI: February 14, 2006.

TA–W–60,922; RB&W Manufacturing LLC, Kent, OH: February 5, 2006.

TA–W–60,964; Federal Mogul, Inc., Brake and Chassis Division, St. Louis, MO: February 13, 2006.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–60,844; Lear Corporation, Interior Systems Division (ISD), Strasburg, VA: January 28, 2006.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

None.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

The Department has determined that criterion (1) of Section 246 has not been met. Workers at the firm are 50 years of age or older.

None.

The Department has determined that criterion (2) of Section 246 has not been met. Workers at the firm possess skills that are easily transferable.

TA–W–60,859; Eaton Corporation, Aerospace Division, Phelps, NY.

TA–W–60,806; Berwick Offray LLC, Berwick Division, Berwick, PA.

TA–W–60,885; Johnson Controls, Inc., Automotive Division, Hudson, WI.

The Department has determined that criterion (3) of Section 246 has not been met. Competition conditions within the workers' industry are not adverse.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

TA–W–60,806A; Berwick Offray LLC, South Centre, Bloomsburg, PA.

The investigation revealed that criteria (a)(2)(A)(I.B.) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–60,794; Peterbilt Motors Company, A Subsidiary of PACCAR Incorporated, Madison, TN.

TA–W–60,890; Maloney Tool and Mold, Inc., Meadville, PA.

TA–W–60,900; Martinrea Industries, Inc., Clare, MI.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–60,186; Deltak, LLC, Plymouth, MN.

TA–W–60,594; Ampac Spanish Fork; LLC, Spanish Fork, UT.

TA–W–60,729; Greif, Inc., Formerly Know As G.C.C. Drum, Franklin Park, IL.

TA–W–60,884; C.A. Lawton Company, Machinery Division, De Pere, WI.

TA–W–60,726; CNI Duluth, LLC, Duluth, MN.

The investigation revealed that the predominate cause of worker separations is unrelated to criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.C) (shift in production to a foreign country under a free trade agreement or a beneficiary country under a preferential trade agreement, or there has been or is likely to be an increase in imports).

None.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–60,634; Time Warner Cable, Coudersport, PA.

TA–W–60,798; Leica Geosystems GRR, LLC, A Division of Leica Geosystems, Inc., Grand Rapids, MI.

TA–W–60,902; Tenet Healthcare, Patient Financial Services, Syndicated Office Systems, Corvallis, OR.

TA–W–60,939; New Orleans Cuisine, Working On-Site at Guide Louisiana, LLC, Grambling, LA.

TA–W–60,981; Sunbeam Products Inc., d/b/a Jarden Consumer Solutions, Milford, MA.

The investigation revealed that criteria of Section 222(b)(2) has not been met. The workers' firm (or subdivision) is not a supplier to or a downstream producer for a firm whose workers were certified eligible to apply for TAA.

None.

I hereby certify that the aforementioned determinations were issued during the period of February 26 through March 2, 2007. Copies of these determinations are available for inspection in Room C–5311, U.S Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: March 6, 2007.

Ralph Dibattista,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E7–4572 Filed 3–13–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,313]

Fairystone Fabrics Burlington, NC; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Fairystone Fabrics, Burlington, North Carolina. The application did not contain new information supporting a conclusion that the determination was erroneous, and also did not provide a justification for reconsideration of the determination that was based on either mistaken facts or a misinterpretation of facts or of the law. Therefore, dismissal of the application was issued.

TA–W–60,313; Fairystone Fabrics, Burlington, North Carolina (March 1, 2007).

Signed at Washington, DC this 6th day of March 2007.

Ralph Dibattista,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E7–4575 Filed 3–13–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,568]

Fiberweb (Reemay, Inc.), Bethune, SC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974, as amended (19 U.S.C. 2813), the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on January 17, 2007, applicable to workers of Fiberweb, Inc., Bethune, South Carolina. The notice was published in the **Federal Register** on February 7, 2007 (72 FR 5748).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers produce nonwoven textile fabric. The State reports that the subject firm's employee wages are reported under the Unemployment Insurance (UI) account for Reemay, Inc.

The Department has learned through follow-up with a company official that the firm's name is Fiberweb and Reemay, Inc. is the affiliated entity that processes the payroll.

It is the Department's intent of the certification to include all workers of the subject firm adversely affected by increased imports of nonwoven textiles. Accordingly, the Department is amending the certification to include workers of the subject firm whose wages are reported under the company name, Reemay, Inc.

The amended notice applicable to TA–W–60,568 is hereby issued as follows:

All workers of Fiberweb (Reemay, Inc.), Bethune, South Carolina, who became totally or partially separated from employment on or after December 8, 2005 through January 17, 2009, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed in Washington, DC, this 1st day of March 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–4578 Filed 3–13–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,563]

General Chemical Performance Products, Repauno Products LLC, Gibbstown, NJ; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on January 10, 2007, applicable to workers of General Chemical Performance Products, Gibbstown, New Jersey. The notice was published in the **Federal Register** on January 25, 2007 (72 FR 3424).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of sodium nitrite.

New information shows that in July 2006, General Chemical Performance Products purchased Repauno Products LLC. Workers separated from employment at the subject firm had their wages reported under separate unemployment insurance (UI) tax account for Repauno Products LLC.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of General Chemical Performance Products who were adversely affected by increased imports.

The amended notice applicable to TA–W–60,563 is hereby issued as follows:

"All workers of General Chemical Performance Products, Repauno Products LLC, Gibbstown, New Jersey, who became totally or partially separated from employment on or after December 6, 2005, through January 10, 2009, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974."

Signed at Washington, DC, this 6th day of March 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–4577 Filed 3–13–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,946]

International Textile Group, New York Sales Office Which Is Comprised of Burlington Worldwide, Burlington House, Cone Denim, New York, NY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974, (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on September 14, 2006, applicable to workers of International Textile Group, New York Sales Office, New York, New York. The notice was published in the **Federal Register** on September 26, 2006 (71 FR 56171).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the sales of textiles produced at affiliated manufactories.

Information from the State shows that workers separated from employment at the subject firm had their wages reported under separate unemployment insurance (UI) tax accounts for International Textile Group, New York Sales Office which is comprised of Burlington Worldwide, Burlington House and Cone Denim.

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA–W–59,946 is hereby issued as follows:

"All workers of the International Textile Group, New York Sales Office which is comprised on Burlington Worldwide, Burlington House and Cone Denim, New York, New York, who became totally or partially separated from employment on or after August 16, 2005 through September 14, 2008, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974 and are also eligible to apply for Alternative Trade Adjustment Assistance under Section 246 of the Trade Act of 1974."

Signed at Washington, DC, this 2nd day of March 2007.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–4574 Filed 3–13–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,779]

Kitty Sportswear, Inc., Leonard Slovin, d/b/a Sunshine Sportswear, Freeport, NY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on February 7, 2007, applicable to workers of Kitty Sportswear, Inc., New York, New York. The notice was published in the **Federal Register** on February 21, 2007 (72 FR 7908).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of swimwear.

New information shows that the correct name of the subject firm should read Kitty Sportswear, Inc., Leonard Slovin, d/b/a Sunshine Sportswear, Inc. Workers separated from employment at the subject firm had their wages reported under a separate unemployment insurance (UI) tax account for Kitty Sportswear, Inc., Leonard Slovin, d/b/a Sunshine, Inc.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Kitty Sportswear, Inc. who were adversely affected by customer imports.

The amended notice applicable to TA–W–60,779 is hereby issued as follows:

"All workers of Kitty Sportswear, Inc., Leonard Slovin, d/b/a Sunshine Sportswear, Inc., Freeport, New York, who became totally or partially separated from employment on or after January 16, 2006, through February 7, 2009, are eligible to apply for adjustment

assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974."

Signed at Washington, DC, this 1st day of March 2007.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–4580 Filed 3–13–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,628]

Quadrafab Corporation, Integral Fabrication Corporation, Plattsburgh, NY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on January 17, 2007, applicable to workers of QuadraFab Corporation, Plattsburgh, New York. The notice was published in the **Federal Register** on February 7, 2007 (72 FR 5748).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of heated food display cases and fire alarm boxes.

New information shows that in early 2006, QuadraFab Corporation purchased a portion of the assets of Integral Fabrication Corporation. Workers separated from employment at the subject firm had their wages reported under separate unemployment insurance (UI) tax accounts for both QuadraFab Corporation and Integral Fabrication Corporation.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of QuadraFab Corporation who were adversely affected by a shift in production to Canada.

The amended notice applicable to TA–W–60,628 is hereby issued as follows:

"All workers of QuadraFab Corporation, Integral Fabrication Corporation, Plattsburgh, New York, who became totally or partially separated from employment on or after December 15, 2005, through January 19, 2009, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974."

Signed at Washington, DC, this 6th day of March 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–4579 Filed 3–13–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,370; TA–W–60,370A]

Radio Frequency Systems, Inc. Microwave Antenna Division Including OnSite Temporary Workers of UTI Meriden, Connecticut and Cable Assembly Division Including OnSite Temporary Workers of Spherion Atlantic Workforce LLC, Meriden, CT; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on December 1, 2006, applicable to workers of Radio Frequency Systems, Inc., Microwave Antenna Division and the Cable Assembly Division, Meriden, Connecticut. The notice was published in the **Federal Register** on December 12, 2006 (71 FR 74564).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers of the Microwave Antenna Division produce microwave antennas used in cell phone towers. The workers of the Cable Assembly Division produce cables and jumpers to connect to the antennas.

Review of the petition file shows that the Department inadvertently failed to include coverage to the onsite temporary workers at each of the Division's described above. Workers of UTI were employed onsite at the Microwave Antenna Division and workers of Spherion Atlantic Workforce LLC were employed onsite at the Cable Assembly Division.

The intent of the Department's certification is to include all workers at Radio Frequency Systems, Inc., Meriden, Connecticut, who were adversely affected by a shift in production to Mexico. Therefore, the Department is amending this certification to include temporary workers from UTI and Spherion Atlantic Workforce LLC working onsite at the Meriden, Connecticut Microwave Antenna and Cable Assembly Divisions of the subject firm.

The amended notice applicable to TA–W–60,370 is hereby issued as follows:

"All workers of Radio Frequency Systems, Inc., Microwave Antenna Division, including onsite temporary workers of UTI, Meriden, Connecticut (TA–W–60,370) and Radio Frequency Systems, Inc., Cable Assembly Division, including onsite temporary workers of Spherion Atlantic Workforce LLC, Meriden, Connecticut (TA–W–60,370A), who became totally or partially separated from employment on or after November 6, 2005, through December 1, 2008, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974."

Signed at Washington, DC, this 7th day of March 2007.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–4576 Filed 3–13–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or

threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than March 26, 2007.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than March 26, 2007.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 6th day of March 2007.

Ralph Dibattista,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[TAA petitions instituted between 2/26/07 and 3/2/07]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
61019	Robert Bosch Corp. (Wkrs)	Greensville, NC	02/26/07	02/12/07
61020	Stroupe Mirror Company (Comp)	Thomasville, NC	02/26/07	02/24/07
61021	Crookhorn-Davis, Inc. (State)	Shelton, CT	02/26/07	02/23/07
61022	Mid Continent Nail Corporation (Wkrs)	Radford, VA	02/26/07	02/23/07
61023	Lenze (Wkrs)	Emperia, KS	02/26/07	02/23/07
61024	Menasha Packaging Company, LLC (Comp)	Pittsburgh, PA	02/26/07	02/23/07
61025	Methode Electronics (Wkrs)	Golden, IL	02/26/07	02/23/07
61026	Enterprise Manufacturing-Scot Young Research (State)	St. Joseph, MO	02/26/07	02/23/07
61027	World Aviation Rewind (State)	Santa Ana, CA	02/27/07	02/26/07
61028	Stantex, Inc. (Comp)	Milledgeville, GA	02/27/07	02/26/07
61029	Werner Co. (Comp)	Greenville, PA	02/27/07	02/15/07
61030	Prospect Mold Inc. (Wkrs)	Cuyahoba Falls, OH	02/27/07	02/23/07
61031	Hitachi Transport Systems (Comp)	Greenville, SC	02/27/07	02/26/07
61032	Baker Furniture-Northern Distribution Center (Wkrs)	Grand Rapids, MI	02/27/07	02/23/07
61033	Trans-Matic Manufacturing Company (State)	Holland, MI	02/27/07	02/23/07
61034	American Identity, Inc. (Comp)	Orange City, IA	02/27/07	02/26/07
61035	Santa's Best (Comp)	Manitowoc, WI	02/27/07	02/26/07
61036	Jones Apparel Group (Wkrs)	Bristol, PA	02/27/07	02/27/07
61037	Flint Group Pigment (Wkrs)	Holland, MI	02/27/07	02/27/07
61038	Delphi Corporation (IUE)	Moraine, OH	02/27/07	02/26/07
61039	Peerless Confection (Union)	Chicago, IL	02/28/07	02/01/07
61040	Imperial World Inc. (Wkrs)	Westmont, IL	02/28/07	02/07/07
61041	Collins & Aikman (Comp)	Port Huron, MI	02/28/07	02/27/07
61042	Kirkwood USA Inc. (Comp)	Ripley, MS	02/28/07	02/27/07
61043	Judco Manufacturing, Inc. (CA)	Harbor City, CA	02/28/07	02/27/07
61044	Michigan Metal Coating (Wkrs)	Port Huron, MI	02/28/07	02/07/07
61045	Eaton Corporation (Comp)	Selma, NC	02/28/07	02/06/07
61046	Schiffer Dental Care Products LLC (Comp)	Agawam, MA	03/01/07	03/01/07
61047	David Crowder Design, Inc. (Wkrs)	North Bay Village, FL	03/01/07	02/28/07
61048	Emerson Network Power (Comp)	Madison, WI	03/01/07	02/28/07
61049	Morton Metalcraft Co. (Comp)	Honea Path, SC	03/01/07	02/28/07
61050	Cartamundi, Inc. (Comp)	Kingsport, TN	03/01/07	02/28/07
61051	Continental Teves (Wkrs)	Morganton, NC	03/02/07	02/07/07
61052	Allied Systems (Wkrs)	Chesapeake, VA	03/02/07	02/15/07
61053	Nypro Kentucky (Wkrs)	Loisville, KY	03/02/07	02/28/07
61054	Corsair Marine, Inc. (State)	Chula Vista, CA	03/02/07	02/28/07
61055	Fung Lum Sewing Company (Wkrs)	San Francisco, CA	03/02/07	03/01/07
61056	Klausener of Mississippi (Comp)	Bruce, MS	03/02/07	02/28/07

[FR Doc. E7–4571 Filed 3–13–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,838]

Sara Lee Intimates, Currently Known As Hanesbrands, Inc., Statesville, NC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on August 17, 2006, applicable to workers of Sara Lee Intimates, a division of Sara Lee Branded Apparel, Statesville, North Carolina. The notice was published in the **Federal Register** on September 6, 2006 (71 FR 52583).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers at the Statesville, North Carolina location produce women's intimate apparel.

New information shows that Sara Lee Intimates is currently known as Hanesbrands, Inc. In September 2006, Sara Lee Corporation spun-off its Branded Apparel business and created an independent company, Hanesbrands, Inc. Workers separated from employment at the subject firm had their wages reported under a separate unemployment insurance (UI) tax account for Hanesbrands, Inc.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Sara Lee Intimates who were adversely affected by a shift in production to Honduras.

The amended notice applicable to TA–W–59,838 is hereby issued as follows:

"All workers of Sara Lee Intimates, currently known as Hanesbrands, Inc., Statesville, North Carolina, who became totally or partially separated from employment on or after August 1, 2005, through August 17, 2008, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974."

Signed at Washington, DC, this 7th day of March 2007.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–4573 Filed 3–13–07; 8:45 am]

BILLING CODE 4510–FN–P

LEGAL SERVICES CORPORATION

Sunshine Act Meetings of the Board of Directors Operations and Regulations Committee

TIMES AND DATES: The Legal Services Corporation Board of Directors Operation and Regulations Committee will meet at 1 p.m., Eastern Daylight Time on March 20, 2007.

LOCATION: The Legal Services Corporation, 3333 K Street, NW.—3rd Floor Conference Center, Washington, DC.

STATUS OF MEETINGS: Open.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of agenda
2. Approval of the minutes of the Committee's January 19, 2007 meeting.
3. Consider and act on whether to recommend any or all of the following to the Board for their consideration:

(a) A resolution that confirms the right of Board members to access corporation records in connection with members' discharge of their fiduciary responsibilities and that clarifies that management has no legal authority to withhold records from Board members;

(b) A resolution that states that the board Chairman has no authority to act on the Board's behalf other than within the authority expressly given to him by Board action;

(c) A resolution that states that no member of the Board acting in any capacity can direct anyone to withhold Corporation records from other Board members for any reason and that members must be given an opportunity to decline available records;

(d) A resolution that permits Board member access to staff responsible for providing ongoing Board support so these employees can provide the support services needed by Board members, removing the access restriction currently imposed by the President's policy at least on these employees.

4. Consider and act on recommendation to the Board for the adoption of Employee Handbook.
5. Status report on Office of Inspector General's audits and Management's response on LSC's Office of Compliance and Enforcement, Office of Program Performance and Office of Information Management.
   a. Management report.
   b. OIG's report.
6. Status report on locality pay.
7. Consider and act on other business.
8. Other public comment.
9. Consider and act on adjournment of meeting.

CONTACT PERSON FOR INFORMATION: Patricia D. Batie, Manager of Board Operations, at (202) 295–1500.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia D. Batie, at (202) 295–1500.

Dated: March 9, 2007.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 07–1210 Filed 3–9–07; 4:11 pm]

BILLING CODE 7050–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB for approval the information collections described in this notice. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below on or before April 13, 2007 to be assured of consideration.

ADDRESSES: Send comments to Desk Officer for NARA, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5167.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–837–1694 or fax number 301–713–7409.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal

agencies to comment on proposed information collections. NARA published a notice of proposed collection for this information collection on December 28, 2006 (71 FR 78225 and 78226). No comments were received. NARA has submitted the described information collection to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) Whether the proposed information collections are necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collections; (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 the use of information technology; and (e) whether small businesses are affected by these collections. In this notice, NARA is soliciting comments concerning the following information collection:

1. *Title:* Applicant Background Survey.

OMB number: 3095–0045.

Agency form number: NA Form 3035.

Type of review: Regular.

Affected public: Individuals and households.

Estimated number of respondents: 5,547.

Estimated time per response: 5 minutes.

Frequency of response: On occasion (when applicant wishes to apply for a job at NARA).

Estimated total annual burden hours: 460 hours.

Abstract: NARA is below parity with the relevant Civilian Labor Force representation for many of our mission critical occupations, and has developed a 10 year Strategic Plan to improve representation and be more responsive to the changing demographics of the country. The only way to determine if there are barriers in the recruitment and selection process is to track the groups that apply and the groups at each stage of the selection process. There is no other objective way to make these determinations and no source of this information other than directly from applicants.

The information is not provided to selecting officials and plays no part in the selection of individuals. Instead, it is used in summary form to determine trends over many selections within a given occupation or organizational area. The information is treated in a very confidential manner. No information from this form is entered into the Personnel File of the individual selected, and the records of those not selected are destroyed after the conclusion of the selection process.

The format of the questions on ethnicity and race are compliant with the OMB requirements and are identical to those used in the year 2000 census. This form is a simplification and update of a similar OPM applicant background survey used by NARA for many years.

This form is used to obtain source of recruitment, ethnicity, race, and disability data on job applicants to determine if the recruitment is effectively reaching all aspects of the relevant labor pool and to determine if there are proportionate acceptance rates at various stages of the recruitment process. Response is optional. The information is used for evaluating recruitment only, and plays no part in the selection of who is hired.

2. *Title:* Personal Identity Verification (PIV) Request.

OMB number: 3095–0057.

Agency form number: NA Form 6006.

Type of review: Regular.

Affected public: Individuals or households, Business or other for-profit, Federal government.

Estimated number of respondents: 1,500.

Estimated time per response: 3 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 75 hours.

Abstract: The collection of information is necessary as to comply with HSPD–12 requirements. Use of the form is authorized by 44 U.S.C. 2104. At the NARA College Park facility, individuals receive a proximity card with the Federal Identity Card (FIC) that is electronically coded to permit access to secure zones ranging from a general nominal level to stricter access levels for classified records zones. The proximity card system is part of the security management system that meets the accreditation standards of the Government intelligence agencies for storage of classified information and serves to comply with E.O. 12958.

Dated: March 8, 2007.

Martha Morphy,

Assistant Archivist for Information Services.

[FR Doc. E7–4630 Filed 3–13–07; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before April 13, 2007. (Note that the new time period for requesting copies has changed from 45 to 30 days after publication). Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting the Life Cycle Management Division (NWML) using one of the following means:

Mail: NARA (NWML), 8601 Adelphi Road, College Park, MD 20740–6001.

E-mail: requestschedule@nara.gov.

FAX: 301–837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Laurence Brewer, Director, Life Cycle

Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. *Telephone:* 301–837–1539. *E-mail: records.mgt@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

SCHEDULES PENDING (Note that the new time period for requesting copies has changed from 45 to 30 days after publication):

1. Department of Agriculture, Food and Nutrition Service (N1–462–04–4, 26 items, 26 temporary items). Electronic data, documentation, and paper and electronic outputs associated with the Electronic Commodity Ordering System database, a web based food ordering system used by State and local governments, the Federal Government, and private industry. Also included are records related to the web site that pertains to these records.

2. Department of Agriculture, Forest Service (N1–95–06–1, 4 items, 2 temporary items). Inputs and outputs relating to observational data on insect and damage specimens from forest and wood products. Proposed for permanent retention are the master files and system documentation.

3. Department of Agriculture, Forest Service (N1–95–06–2, 4 items, 2 temporary items). Inputs and outputs relating to inventories and basic information compiled on the natural resources found within National Forest lands of the Pacific Southwest Region. Proposed for permanent retention are the master files and system documentation.

4. Department of Agriculture, Forest Service (N1–95–06–3, 4 items, 4 items, 2 temporary items). Inputs and outputs relating to an electronic system used to develop an interagency system for wildfire preparedness analysis, planning, and budgeting. Proposed for permanent retention are the master files and system documentation.

5. Department of Agriculture, Forest Service (N1–95–06–4, 4 items, 4 temporary items). Inputs, outputs, master files, and documentation relating to an electronic database containing reviews of scientific literature about fire effects on plants and animals.

6. Department of the Army, Agency-wide (N1–AU–06–10, 9 items, 9 temporary items). Records relating to the general administration of Non-Appropriated Fund (NAF) Instrumentalities. Includes insurance claim forms, loss recovery investigations and reports, property accountability forms, applications for scholarships and awards, building utility service agreements, vehicle registrations, and minor construction project drawings. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

7. Department of the Army, Agency-wide (N1–AU–07–6, 2 items, 2 temporary items). Records used to request, manage, and implement Long-Haul and Land Mobile Communication systems. Included are system requests, service orders, status of acquisitions messages, equipment coordination, system design, installation plans, and general funding information. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

8. Department of Defense, Defense Logistics Agency (N1–361–05–2, 5 items, 5 temporary items). Public Key Infrastructure administrative and transaction records. Included are records relating to digital signatures, certification validation responses, certificates, agreements, plans, studies, analyses, reports, guidance, testing and validation, procedures and training documentation.

9. Department of Energy, Bonneville Power Administration (N1–305–03–4, 31 items, 31 temporary items). Records related to engineering, design and construction support; information resources; and transmission marketing and sales. Included are designs, structural analyses, program direction, policies, guidelines, standards, procedures, resource proposals, data backups, software, agreements, contracts, electronic postings, correspondence, filings, notices, load sheets, load logs, accounts, requests, forecasts, documentation and voice recordings.

10. Department of Energy, Bonneville Power Administration (N1–305–05–3, 2 items, 2 temporary items). Records related to financial operations of Trust Funds and Fish and Wildlife Credits. Included are investment policies, financial statements, spreadsheets, reports, budgets, correspondence and similar materials. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

11. Department of Energy, Bonneville Power Administration (N1–305–05–4, 3 items, 3 temporary items). Records related to the sales of substations and equipment. Included are settlement agreements, reports, correspondence, memoranda and similar records. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

12. Department of Energy, Bonneville Power Administration (N1–305–05–7, 2 items, 2 temporary items). Records related to audiometric evaluations and ergonomic assessments. Included are calibrations, analyses, findings and recommendations. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

13. Department of Justice, Drug Enforcement Administration (N1–170–

06–2, 18 items, 18 temporary items). Records documenting the chain of custody for investigative non-drug and drug evidence.

14. Department of Justice, Office of Justice Programs (N1–423–07–1, 2 items, 2 temporary items). Records accumulated by the Office for Victims of Crime created while planning observances of the National Crime Victims' Rights Week. Included are files relating to award determination and nomination. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

15. Department of State, Bureau of Diplomatic Security (N1–59–07–1, 27 items, 27 temporary items). Records documenting the formulation, coordination, implementation, evaluation, and administration of physical security and protective services training and professional development courses. Records include curriculum development and review material, training course delivery and evaluation material, student participation material, administrative files documenting day-to-day housekeeping activities, program accreditation material, training program policies and procedures material, and course reporting material.

16. Department of the Treasury, Bureau of the Public Debt (N1–53–06–5, 81 items, 78 temporary items). Records relating to retail securities services, including accounting, administrative matters, investor payment, tax, legacy fees, savings bonds, tax reporting, systems, primary records, customer service support, and investor education. Proposed for permanent retention are consumer research reports and promotional materials.

17. Department of the Treasury, Internal Revenue Service (N1–58–07–2, 4 items, 4 temporary items). Inputs, master files, outputs and documentation of the Employee Protection System.

18. Department of the Treasury, Office of the Comptroller of the Currency (N1–101–06–3, 3 items, 3 temporary items). Inputs, master files, and system documentation for the money laundering risk system. This schedule authorizes the agency to apply disposition instructions to these records regardless of recordkeeping medium, except for the master files.

19. Department of the Treasury, Office of the Comptroller of the Currency (N1–101–07–1, 6 items, 6 temporary items). Master files and system documentation for the credit card, home equity, and fast data modules of the supervisory information system. This schedule authorizes the agency to apply disposition instructions to these records regardless of recordkeeping medium, except for the master files.

20. Department of the Treasury, United States Mint (N1–104–06–1, 4 items, 2 temporary items). Chief Counsel litigation case files and legal subject files. Proposed for permanent retention are significant litigation case files and legal opinion and memoranda files.

21. Environmental Protection Agency, Agency-wide (N1–412–06–31, 3 items, 1 temporary item). Records consist of the electronic software program. Proposed for permanent retention are the electronic data and supporting documentation of the Underground Injection Control Databases.

22. Environmental Protection Agency, Agency-wide (N1–412–07–7, 2 items, 1 temporary item). This schedule authorizes the agency to apply the existing disposition instructions to record series regardless of recordkeeping medium. The records include enforcement action, oil site-specific, case files that result in no legal action or involve routine legal action. Paper recordkeeping copies of these files were previously approved for disposal. Paper recordkeeping copies of enforcement action, oil site-specific, case files for landmark cases were previously approved as permanent.

23. Environmental Protection Agency, Agency-wide (N1–412–07–8, 1 item, 1 temporary item). This schedule authorizes the agency to apply the existing disposition instructions to record series regardless of recordkeeping medium. The records consist of documentation of removal activities conducted by EPA and other entities in response to an oil spill. Paper recordkeeping copies of these files were previously approved for disposal.

24. Federal Mediation and Conciliation Service (N1–280–07–1, 3 items, 3 temporary items). This schedule reduces the retention period for recordkeeping copies of grants administration case files and grants contract dispute review files, and increases the retention period for recordkeeping copies of grant review board final reports. These records were previously approved for disposal.

25. Federal Mediation and Conciliation Service (N1–280–07–3, 2 items, 1 temporary item). This schedule changes the retention period to permanent for recordkeeping copies of original training and course instructional materials, which were previously approved for disposal, and increases the retention period for copies of employee training records.

26. Small Business Administration, Administrative Information Branch (N1–309–05–22, 4 items, 4 temporary items). Master files, outputs, and system documentation for the Electronic Lending System, which lenders use to obtain loan guarantees.

Dated: March 6, 2007.

Michael J. Kurtz,

Assistant Archivist for Records Services Washington, DC.

[FR Doc. E7–4631 Filed 3–13–07; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Proposed Collection, Comment Request

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request clearance of a revision to this currently approved collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. While obtaining and considering public comment, NSF will prepare the submission requesting OMB clearance of this collection for no longer than three years.

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

DATES: Written comments should be received by May 14, 2007, to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard,

Room 295, Arlington, VA 22230, or by e-mail to *splimpton@nsf.gov.*

FOR FURTHER INFORMATION CONTACT: Suzanne Plimpton on (703) 292–7556 or send e-mail to *splimpton@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Title of Collection: Data Collection for the Evaluation of the Historically Black Colleges and Universities—University (HBCU–UP) Program.

OMB Control No.: 3145–0204.

Expiration Date of Approval: October 31, 2009.

Abstract: The National Science Foundation (NSF) requests revision and extension of a currently approved data collection (e.g., interviews, surveys, focus groups, site visits protocols) measuring NSF's contribution to the Nation's Historically Black Colleges and Universities (HBCU) enterprise and overall science and engineering workforce. This continuation expands the data collection most recently approved through October 2009 (OMB 3145–0204) beyond the student respondents to administrators, faculty and other participants, observers, or beneficiaries in undergraduate programs in Science, Technology, Engineering and Mathematics (STEM) at Historically Black Colleges and Universities. NSF is reissuing this notice because the first notice did not make clear that there would be both individual and institutional respondents to these data collections.

NSF funds a program, called Historically Black Colleges and Universities Undergraduate Program (HBCU–UP), designed to help institutions strengthen the quality of their undergraduate STEM programs. For more information about HBCU–UP please visit the NSF Web site at: *http://www.nsf.gov/funding/pgm_summ.jsp?pims_id=5481&org=HRD&from=home.*

The Urban Institute (UI) is conducting an evaluation of the HBCU–UP program which received initial approval from the Office of Management and Budget (OMB) on 31 October 2006.

Using a multiple-methods approach, UI researchers are conducting an evaluation to study the effectiveness of the program. The evaluation will include both process and summative components. The process component will document how different models within the Program are being implemented, thus helping evaluators to link strategies to outcomes, identify crucial components of different models, and contribute to the construction of general theories to guide future initiatives to increase the diversity of the STEM workforce. The summative component of the evaluation will focus on the extent to which the Program has produced outcomes that meet stated goals for students, faculty and institutions. The process evaluation relies mainly on qualitative data collected during case study site visits and interviews; the summative evaluation will rely primarily on data collected through a survey of graduates and faculty.

NSF uses the UI analysis to prepare and publish reports and to respond to requests from Committees of Visitors, Congress and the Office of Management and Budget, particularly as related to the Government Performance and Results Act (GPRA) and the Program Effectiveness Rating Tool (PART). The HBCU–UP study's broad questions include but are not limited to:

What do individuals following post-participation in HBCU–UP or other NSF-funded undergraduate education opportunities do? Do HBCU–UP or other NSF-funded opportunities provide graduates with the professional and/or research skills needed to work in science and engineering? Are HBCU–UP or other NSF-sponsored students and faculty satisfied that their NSF-funded experience advanced their careers in science or engineering? To what extent do HBCU–UP or other former-NSF-sponsored graduates engage in the science and engineering workforce conduct inter- or multi-disciplinary science? Is there evidence of a legacy from NSF-funding that changed a degree-granting department beyond number of students supported and degrees awarded? To what extent have projects achieved or contributed to individual project goals or the NSF program goals? To what extent have NSF-funded projects or programs broadened participation by diverse individuals, particularly individuals traditionally underemployed in science or engineering, including but not limited to women, minorities, and persons-with-disabilities?

Respondents: Individuals or households, not-for-profit institutions, business or other for profit, and Federal, State, Local or Tribal Government.

Estimated Number of Annual Respondents: 5000.

Burden on the Public: 1250 hours.

Dated: March 9, 2007.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. E7–4619 Filed 3–13–07; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collection under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The titles of the information collection:* (1) NRC Form 212, "Qualifications Investigation, Professional, Technical, and Administrative Positions" (other than clerical positions); (2) NRC Form 212A, "Qualifications Investigation, Secretarial/Clerical".

2. *Current OMB approval numbers:* (1) 3150–0033; (2) 3150–0034.

3. *How often the collection is required:* On occasion.

4. *Who is required or asked to report:* Current/former supervisors, co-workers of applicants for employment.

5. *The estimated number of annual respondents:* (1) NRC Form 212: 1200; (2) NRC Form 212A: 400.

6. *The estimate of the total number of hours needed annually to complete the requirement or request:* (1) NRC Form 212: 300 hours (15 minutes per response); (2) NRC Form 212A: 100 hours (15 minutes per response).

7. *Abstract:* Information requested on NRC Form 212, "Qualifications Investigation, Professional, Technical, and Administrative Positions (other than clerical positions)" and NRC Form 212A, "Qualifications Investigation, Secretarial/Clerical" is used to determine the qualifications and suitability of external applicants for employment with NRC. The completed forms may be used to examine, rate and/or assess the prospective employee's qualifications. The information regarding the qualifications of

applicants for employment is reviewed by professional personnel of the Office of Human Resources, in conjunction with other information in the NRC files, to determine the qualifications of the applicant for appointment to the position under consideration.

Submit, by May 14, 2007, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the burden estimate accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html*. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Margaret A. Janney, Mail Stop: T–5F52, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–7245, or by Internet electronic mail to *InfoCollects@nrc.gov*.

Dated at Rockville, Maryland, this 8th day of March, 2007.

For the Nuclear Regulatory Commission.

Margaret A. Janney,

NRC Clearance Officer, Office of Information Services.

[FR Doc. E7–4672 Filed 3–13–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Opportunity for Comment on Model Safety Evaluation for Technical Specification Task Force (TSTF) Traveler To Provide Actions for One Steam Supply to Turbine Driven AFW/EFW Pump Inoperable Using the Consolidated Line Item Improvement Process

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for comment.

SUMMARY: Notice is hereby given that the staff of the Nuclear Regulatory Commission (NRC) has prepared a model safety evaluation (SE) relating to proposed changes to Actions in the Standard Technical Specifications (STS) relating to One Steam Supply to Turbine Driven Auxiliary Feedwater / Emergency Feedwater (AFW/EFW) Pump Inoperable. This change would establish a Completion Time in the Standard Technical Specifications for the Condition where one steam supply to the turbine driven AFW/EFW pump is inoperable concurrent with an inoperable motor driven AFW/EFW train. The NRC staff has also prepared a model application and model no significant hazards consideration (NSHC) determination relating to this matter. The purpose of these models is to permit the NRC to efficiently process amendments that propose to adopt the associated changes into plant-specific technical specifications (TS). Licensees of nuclear power reactors to which the models apply can request amendments confirming the applicability of the SE and NSHC determination to their reactors. The NRC staff is requesting comments on the Model SE, Model Application and Model NSHC determination prior to announcing their availability for referencing in license amendment applications.

DATES: The comment period expires 30 days from the date of this publication. Comments received after this date will be considered if it is practical to do so, but the Commission can only ensure consideration for comments received on or before this date.

ADDRESSES: Comments may be submitted either electronically or via U.S. mail.

To submit comments or questions on a proposed standard technical specification change via the Internet, use *Form for Sending Comments* on NRC Documents, then select Proposed Changes to Technical Specifications. If you are commenting on a proposed change, please match your comments with the correct proposed change by copying the title of the proposed change from column one to the previous table into the appropriate field of the comment form.

Submit written comments to: Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, Mail Stop T–6D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Hand deliver comments to 11545 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays.

Copies of comments received may be examined at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

Comments may be submitted by electronic mail to *CLIIP@nrc.gov*.

FOR FURTHER INFORMATION CONTACT: Trent L. Wertz, Technical Specifications Branch, Division of Inspection and Regional Support, Office of Nuclear Reactor Regulation, Mail Stop O–12H2, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–1568.

SUPPLEMENTARY INFORMATION:

Background

Regulatory Issue Summary 2000–06, "Consolidated Line Item Improvement Process for Adopting Standard Technical Specification Changes for Power Reactors," was issued on March 20, 2000. The consolidated line item improvement process (CLIIP) is intended to improve the efficiency and transparency of NRC licensing processes. This is accomplished by processing proposed changes to the Standard Technical Specifications (STS) (NUREGs 1430–1434) in a manner that supports subsequent license amendment applications. The CLIIP includes an opportunity for the public to comment on proposed changes to the STS following a preliminary assessment by the NRC staff and finding that the change will likely be offered for adoption by licensees. The CLIIP directs the NRC staff to evaluate any comments received for a proposed change to the STS and to either reconsider the change or proceed with announcing the availability of the change to licensees. Those licensees opting to apply for the subject change to TS are responsible for reviewing the NRC staff's evaluation, referencing the applicable technical justifications, and providing any necessary plant specific information. Each amendment application submitted in response to the notice of availability would be processed and noticed in accordance with applicable rules and NRC procedures.

This notice for comment involves establishing a Completion Time in the Limiting Condition for Operation (LCO) 3.7.5 of the STS for the Condition where one steam supply to the turbine driven AFW/EFW pump is inoperable concurrent with an inoperable motor driven AFW/EFW train. In addition, this notice for comment involves changes to the STS that establish specific Conditions and Action requirements for

two motor driven AFW/EFW trains are inoperable at the same time and for when the turbine driven AFW/EFW train is inoperable either (a) due solely to one inoperable steam supply, or (b) due to reasons other than one inoperable steam supply. The changes were proposed by the Technical Specification Task Force (TSTF) in TSTF Traveler TSTF–412, Revision 3, which is accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site *http://www.nrc.gov/reading-rm/adams.html* (Accession No. ML070100363). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Applicability

This proposed change to adopt TSTF–412 is applicable to all pressurized water reactors (PWRs) designed by Babcock and Wilcox (B&W), Westinghouse, and Combustion Engineering (CE). If approved, to efficiently process the incoming license amendment applications, the NRC staff will request that each licensee applying for the changes addressed by TSTF–412, Revision 3, use the CLIIP to submit a License Amendment Request (LAR) that conforms to the enclosed Model Application (Enclosure 1). Any deviations from the Model Application should be explained in the licensee's submittal. Significant deviations from the approach, or inclusion of additional changes to the license, will result in staff rejection of the submittal. Instead, licensees desiring significant variations and/or additional changes should submit a LAR that does not claim to adopt TSTF–412. Variations from the approach recommended in this notice may require additional review by the NRC staff and may increase the time and resources needed for the review.

Public Notices

This notice requests comments from interested members of the public within 30 days of the date of publication in the **Federal Register**. Following the NRC staff's evaluation of comments received as a result of this notice, the NRC staff may reconsider the proposed change or may proceed with announcing the availability of the change in a subsequent notice (perhaps with some changes to the SE or proposed NSHC determination as a result of public comments).

If the NRC staff announces the availability of the change, licensees wishing to adopt the change will submit an application in accordance with applicable rules and other regulatory requirements. The NRC staff will in turn issue for each application a notice of proposed action, which includes a proposed NSHC determination. A notice of issuance of an amendment of operating license will also be issued to announce the adoption of TSTF–412 for each plant that applies for and receives the requested change.

Dated at Rockville, Maryland, this 8th day of March, 2007.

For the Nuclear Regulatory Commission.

Timothy J. Kobetz,

Chief, Technical Specifications Branch, Division of Inspection and Regional Support, Office of Nuclear Reactor Regulation.

The following example of a license amendment request (LAR) was prepared by the NRC staff to facilitate the adoption of Technical Specifications Task Force (TSTF) Traveler TSTF–412, Revision 3 "Provide Actions for One Steam Supply to Turbine Driven AFW/EFW Pump Inoperable." The model provides the expected level of detail and content for a LAR to adopt TSTF–412, Revision 3. Licensees remain responsible for ensuring that their plant-specific LAR fulfills their administrative requirements as well as NRC regulations.

Proposed Model License Amendment Request

U.S. Nuclear Regulatory Commission
Document Control Desk
Washington, DC 20555

Subject: Plant Name
Docket No. 50–
Application for Technical Specification Improvement To Revise Actions for One Steam Supply to Turbine Driven Auxiliary Feedwater/Emergency Feedwater Pump Inoperable Using the Consolidated Line Item Improvement Process

Gentlemen:

In accordance with the provisions of 10 CFR 50.90 of Title 10 of the **Code of Federal Regulations** (10 CFR), [LICENSEE] is submitting a request for an amendment to the technical specifications (TS) for [PLANT NAME, UNIT NOS.].

The proposed amendment establishes Conditions, Required Actions, and Completion Times in the Standard Technical Specifications (STS) for the Condition where one steam supply to the turbine driven Auxiliary Feedwater/Emergency Feedwater (AFW/EFW) pump is inoperable concurrent with an inoperable motor driven AFW/EFW train. In addition, this amendment establishes changes to the STS that establish specific Actions when two motor driven AFW/EFW trains are inoperable at the same time and the turbine driven AFW/EFW train is inoperable either (a) due solely to one inoperable steam supply, or (b) due to reasons other than one inoperable steam supply. The change is consistent with NRC-approved Technical Specification Task Force (TSTF) Traveler, TSTF–412, Revision 3, "Provide Actions for One Steam Supply to Turbine Driven AFW/EFW Pump Inoperable." The availability of this technical specification improvement was announced in the **Federal Register** on [DATE OF NOTICE OF AVAILABILITY] as part of the consolidated line item improvement process (CLIIP).

Enclosure 1 provides a description of the proposed change and confirmation of applicability.

Enclosure 2 provides the existing TS pages marked-up to show the proposed change.

Enclosure 3 provides the existing TS Bases pages marked-up to reflect the proposed change. There are no new regulatory commitments associated with this proposed change.

[LICENSEE] requests approval of the proposed license amendment by [DATE], with the amendment being implemented [BY DATE OR WITHIN X DAYS].

In accordance with 10 CFR 50.91, a copy of this application, with enclosures, is being provided to the designated [STATE] Official.

I declare under penalty of perjury under the laws of the United States of America that I am authorized by [LICENSEE] to make this request and that the foregoing is true and correct.

[Note that request may be notarized in lieu of using this oath or affirmation statement.]

If you should have any questions regarding this submittal, please contact [ ].

Sincerely,

Name, Title

Enclosures: 1. Description and Assessment
2. Proposed Technical Specification Changes
3. Proposed Technical Specification Bases Changes

cc: NRR Project Manager
Regional Office
Resident Inspector
State Contact

Enclosure 1 to Model License Amendment Request—Description and Assessment

1.0 Description

The proposed License amendment establish a new Completion Time in Standard Technical Specifications Section [3.7.5] where one steam supply to the turbine driven AFW/EFW pump is inoperable concurrent with an inoperable motor driven AFW/EFW train. This amendment also establishes specific Conditions and Action requirements when two motor driven AFW/EFW trains are inoperable at the same time and the turbine driven AFW/EFW train is inoperable either (a) due solely to one inoperable steam supply, or (b) due to reasons other than one inoperable steam supply.

The changes are consistent with NRC approved Industry/Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–412, Revision 3, "Provide Actions for One Steam Supply to Turbine Driven AFW/EFW Pump Inoperable." The availability of this technical specification improvement was announced in the **Federal Register** on [DATE] ([xx FR xxxxx]) as part of the consolidated line item improvement process (CLIIP).

2.0 Assessment

2.1 Applicability of Published Safety Evaluation

[LICENSEE] has reviewed the safety evaluation published on [DATE] ([xx FR xxxxx]) as part of the CLIIP. This verification included a review of the NRC staff's evaluation as well as the supporting information provided to support TSTF–412, Revision 3. [LICENSEE] has concluded that the justifications presented in the TSTF proposal and the safety evaluation prepared by the NRC staff are applicable to [PLANT, UNIT NOS.] and justify this amendment for the incorporation of the changes to the [PLANT] Technical Specifications.

2.2 Optional Changes and Variations

[LICENSEE] is not proposing any variations or deviations from the technical specification changes described in TSTF–412, Revision 3, or the NRC staff's model safety evaluation published in the **Federal Register** on [DATE] ([xx FR xxxxx]).

3.0 Regulatory Analysis

3.1 No Significant Hazards Determination

[LICENSEE] has reviewed the proposed no significant hazards consideration determination published on [DATE] as part of the CLIIP. [LICENSEE] has concluded that the proposed determination presented in the notice is applicable to [PLANT] and the determination is hereby incorporated by reference to satisfy the requirements of 10 CFR 50.91(a).

3.2 Verification and Commitments

There are no new regulatory commitments associated with this proposed change.

4.0 Environmental Evaluation

[LICENSEE] has reviewed the environmental evaluation included in the model safety evaluation published in the **Federal Register** on [DATE] ([xx FR xxxxx]) as part of the CLIIP. [LICENSEE] has concluded that the NRC staff's findings presented in that evaluation are applicable to [PLANT] and the evaluation is hereby incorporated by reference for this application.

Enclosure 2 to Model License Amendment Request: PROPOSED TECHNICAL SPECIFICATION CHANGES

Enclosure 3 to Model License Amendment Request: Changes to TS Bases Pages

Proposed Model Safety Evaluation

U.S. Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Consolidated Line Item Improvement

Technical Specification Task Force Traveler TSTF–412, Revision 3, Provide Actions for One Steam Supply to the Turbine Driven AFW/EFW Pump Inoperable

1.0 Introduction

By application dated [DATE], [LICENSEE NAME] (the licensee), submitted a request for changes to the [PLANT NAME], Technical Specifications (TS) (Agencywide Documents Access and Management System (ADAMS) Accession No. [MLxxxxxxxxx]). The requested change would establish a Completion Time for the Condition where one steam supply to the turbine driven AFW/EFW pump is inoperable concurrent with an inoperable motor driven AFW/EFW train and establish specific Conditions and Required Actions when two motor driven AFW/EFW trains are inoperable at the same time and the turbine driven AFW/EFW train is inoperable either (a) due solely to one inoperable steam supply, or (b) due to reasons other than one inoperable steam supply.

These changes were described in a Notice of Availability published in the **Federal Register** on [DATE] ([xx FR xxxxx]).

2.0 Regulatory Evaluation

In 10 CFR 50.36, the Commission established its regulatory requirements related to the content of Technical Specifications (TS). Pursuant to 10 CFR 50.36(c), TS are required to include items in the following categories: (1) Safety limits, limiting safety system settings, and limiting control settings; (2) limiting conditions for operation (LCOs); (3) surveillance requirements (SRs); (4) design features; and (5) administrative controls. The rule does not specify the particular requirements to be included in a plant's TS.

3.0 Technical Evaluation

TS 3.7.5, Auxiliary Feedwater (AFW)/ Emergency Feedwater (EFW) System

The AFW/EFW System is designed to automatically supply sufficient water to the steam generator(s) to remove decay heat upon the loss of normal feedwater supply with steam generator pressure at the set point of the Main Steam Safety Valves (MSSVs). Subsequently, the AFW/EFW System supplies sufficient water to cool the unit to Residual Heat Removal (RHR) System entry conditions, with steam being released through the Atmospheric Dump Valves (ADVs).

AFW/EFW Systems typically consist of two motor driven AFW/EFW pumps and one steam turbine driven pump configured into three trains. The capacity of the motor driven and steam driven AFW/EFW pumps can vary by plant. Motor driven pumps typically provide 50% or 100% of the required AFW/EFW flow capacity as assumed in the accident analysis. Motor driven AFW/EFW pumps are typically powered from an independent Class 1E power supply and each pump train typically feeds half of the steam generators, although each pump has the capability to be realigned from the control room to feed other steam generators. The steam turbine driven AFW/EFW pump provides either 100% or 200% of the required capacity to all steam generators. The steam turbine driven pump receives steam from two main steam lines upstream of the main steam isolation valves. Each of the steam feed lines will supply 100% of the requirements of the turbine driven AFW/EFW pump.

LCO 3.7.5, Condition A (as Proposed)

Condition A is modified to refer to the inoperability of a turbine driven AFW/EFW train due to an inoperable steam supply, instead of referring to the inoperability of a turbine driven AFW/EFW pump. This change is being proposed in order to make Condition A train oriented instead of component oriented, consistent with the other Conditions that are included in STS 3.7.5. The train oriented approach is consistent with the preferred approach that is generally reflected in the STS, and therefore the proposed change is considered to be acceptable.

STS 3.7.5, Condition C (as Proposed)

A new Condition C with two possible Required Actions (C.1 OR C.2) is proposed for the turbine driven AFW/EFW train being inoperable due to one inoperable steam supply and one motor driven AFW/EFW train being inoperable

at the same time. Required Action C.1 requires restoration of the affected steam supply to operable status within either 24 or 48 hours, depending on the capability of the motor driven AFW/EFW train that remains operable. Alternatively, Required Action C.2 requires restoration of the inoperable motor driven AFW/EFW train within either 24 or 48 hours, again depending on the capability of the motor driven AFW/EFW train that remains operable. New Condition C provides two proposed Completion Times that are dependent upon the capacity of the remaining operable motor driven AFW/EFW train to provide AFW/EFW to the steam generators.

A proposed 24 hour Completion Time is applicable to plants that may provide insufficient flow to the steam generators (SGs) in accordance with accident analyses assumptions if a main steam line break (MSLB) or feedwater line break (FLB) were to occur that renders the remaining steam supply to the turbine driven AFW/EFW pump inoperable (a concurrent single failure is not assumed). Insufficient feedwater flow could result, for example, if a single motor driven AFW/EFW train does not have sufficient capacity to satisfy accident analyses assumptions, or if the operable pump is feeding the faulted SG (i.e. the SG that is aligned to the operable steam supply for the turbine driven AFW/EFW pump). [This would typically apply to plants with each AFW/EFW motor driven pump having less than 100% of the required flow.] Likewise, a proposed 48 hour Completion Time is applicable when the remaining operable motor driven AFW/EFW train is capable of providing sufficient feedwater flow in accordance with accident analyses assumptions. [This would typically apply to plants with each AFW/EFW motor driven pump having greater than or equal to 100% of the required flow.]

The STS typically allows a 72 hour Completion Time for Conditions where the remaining operable equipment is able to mitigate postulated accidents without assuming a concurrent single active failure. In this particular case, a 24 hour Completion Time is proposed for the situation where the AFW/EFW system would be able to perform its function for most postulated events, and would only be challenged by a MSLB or FLB that renders the remaining operable steam supply to the turbine driven AFW/EFW pump inoperable. Additionally, depending on the capacity of the operable motor driven AFW/EFW pump, it may be able to mitigate MSLB and FLB accidents during those instances when it is not aligned to the faulted SG. The selection of 24 hours for the Completion Time is based on the remaining operable steam supply to the turbine driven AFW/EFW pump and the continued functionality of the turbine driven AFW/EFW train, the remaining operable motor driven AFW/EFW train, and the low likelihood of an event occurring during this 24 hour period that would challenge the capability of the AFW/EFW system to provide feedwater to the SGs. The proposed Completion Time for this particular situation is consistent with what was approved for Waterford 3 by License Amendment 173 for a similar Condition (ADAMS Accession No. ML012840538), and it is commensurate with the STS in that the proposed Completion Time is much less than the 72 hours that is allowed for the situation where accident mitigation capability is maintained. Therefore, the NRC staff agrees that the proposed 24 hour Completion Time is acceptable for this particular situation.

A 48 hour Completion Time is proposed for the situation where the remaining operable motor driven AFW/EFW train is able to mitigate postulated accidents in accordance with accident analyses assumptions without assuming a concurrent single active failure. The selection of 48 hours is based on the continued capability of the AFW/EFW system to perform its function, while at the same time recognizing that this Condition represents a higher level of degradation than one inoperable AFW/EFW train which is currently allowed for up to 72 hours by STS 3.7.5. The proposed 48 hour Completion Time represents an appropriate balance between the more severe 24 hour situation discussed in the previous paragraph and the less severe Condition that is afforded a 72 hour Completion Time by the current STS. Therefore, the NRC staff agrees that the proposed 48 hour Completion Time is acceptable for this particular situation.

STS 3.7.5, Condition D (as Proposed)

The current Condition C is renamed as Condition D. This Condition has been modified to incorporate changes brought on by the addition of new Condition C. The first Condition has been modified and now applies to the situation where the Required Action and associated Completion Time of Condition A, B, or C are not met. This section of Condition D is modified to also apply to the new Condition C when the Completion Time that is specified for new Condition C is not met. The NRC staff considers this to be appropriate and consistent with existing STS 3.7.5 requirements to place the plant in a mode where the Condition does not apply when the Required Actions are not met.

The second Condition following the first "OR" in Condition D is modified from "Two AFW/EFW trains inoperable in MODE 1, 2, or 3" to "Two AFW/EFW trains inoperable in MODE 1, 2, or 3 for reasons other than Condition C." This change is necessary to recognize the situation specified by Condition C (as proposed) where one motor driven AFW/EFW train is allowed to be inoperable at the same time that the turbine driven AFW/EFW train is inoperable due to an inoperable steam supply to the pump turbine. Therefore, the NRC staff considers the proposed change to be acceptable.

The Required Actions associated with this Condition were renamed from C.1 AND C.2 to D.1 AND D.2 but not otherwise changed. Required Action D.1 requires the plant to be in Mode 3 in 6 hours, and Required Action D.2 requires the plant to be in Mode 4 in 18 hours. This change is purely editorial as no other changes are involved. Therefore, this proposed change is acceptable.

STS 3.7.5, Condition E (as Proposed)

Because current Condition C is renamed as Condition D, current Condition D is renamed as Condition E. This change is purely editorial as no other changes are involved. Therefore, the proposed change is acceptable.

STS 3.7.5, Condition F (as Proposed)

Because current Condition D is renamed as Condition E, current Condition E is renamed as Condition F. This change is purely editorial as no other changes are involved. Therefore, the proposed change is acceptable.

STS 3.7.5, Bases (as Proposed)

Though changes to the STS Bases do not require NRC approval per se, changes to the STS Bases were reviewed to assess their consistency with the proposed changes to STS 3.7.5. The proposed changes to the STS Bases appeared to be consistent with the proposed changes to STS 3.7.5.

4.0 State Consultation

In accordance with the Commission's regulations, the [STATE] State official was notified of the proposed issuance of the amendments. The State official had [(1) no comments or (2) the following comments—with subsequent disposition by the NRC staff].

5.0 Environmental Consideration

The amendment changes a requirement with respect to the installation or use of a facility component located within the restricted

area as defined in 10 CFR Part 20 and changes surveillance requirements. The NRC staff has determined that the amendment involves no significant increase in the amounts and no significant change in the types of any effluents that may be released offsite, and that there is no significant increase in individual or cumulative occupational radiation exposure. The Commission has previously issued a proposed finding that the amendment involves no significant hazards consideration, and there has been [(1) no public comment on such finding (2) the following comments with subsequent disposition by the NRC staff ([xx FR xxxxx, DATE]). Accordingly, the amendment meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Pursuant to 10 CFR 51.22(b) no environmental impact statement or environmental assessment need be prepared in connection with the issuance of the amendment.

6.0 Conclusion

The Commission has concluded, based on the considerations discussed above, that (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendments will not be inimical to the common defense and security or to the health and safety of the public.

The proposed changes are consistent with NRC practices and policies as generally reflected in the STS and as reflected by applicable precedents that have been approved. Therefore, the NRC staff has determined that the proposed changes to STS 3.7.5 should be approved.

Model No Significant Hazards Consideration Determination

Description of amendment request: The requested change, applicable to all pressurized water reactors (PWRs) designed by Babcock and Wilcox (B&W), Westinghouse, and Combustion Engineering (CE), would provide changes to the Actions in the Standard Technical Specifications (STS) relating to One Steam Supply to Turbine Driven Auxiliary Feedwater/Emergency Feedwater (AFW/EFW) Pump Inoperable. The proposed change is described in Technical Specification Task Force (TSTF) Standard TS Change Traveler TSTF–412, Revision 3, and was described in the Notice of Availability published in the **Federal Register** on [DATE] ([xx FR xxxxx]).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of any accident previously evaluated?

Response: No.

The Auxiliary/Emergency Feedwater (AFW/EFW) System is not an initiator of any design basis accident or event, and therefore the proposed changes do not increase the probability of any accident previously evaluated. The proposed changes to address the condition of one or two motor driven AFW/EFW trains inoperable and the turbine driven AFW/EFW train inoperable due to one steam supply inoperable do not change the response of the plant to any accidents.

The proposed changes do not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, and configuration of the facility or the manner in which the plant is operated and maintained. The proposed changes do not adversely affect the ability of structures, systems, and components (SSCs) to perform their intended safety function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed changes do not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of any accident previously evaluated. Further, the proposed changes do not increase the types and amounts of radioactive effluent that may be released offsite, nor significantly increase individual or cumulative occupational/public radiation exposures.

Therefore, the changes do not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not result in a change in the manner in which the AFW/EFW System provides plant protection. The AFW/EFW System will continue to supply water to the steam generators to remove decay heat and other residual heat by delivering at least the minimum required flow rate to the steam generators. There are no design changes associated with the proposed changes. The changes to the Conditions and Required Actions do not change any existing accident scenarios, nor create any new or different accident scenarios.

The changes do not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the changes do not impose any new or different requirements or eliminate any existing requirements. The changes do not alter assumptions made in the safety analysis. The proposed changes are consistent with the safety analysis assumptions and current plant operating practice.

Therefore, the changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The safety analysis acceptance criteria are not impacted by these changes. The proposed changes will not result in plant operation in a configuration outside the design basis.

Therefore, it is concluded that the proposed change does not involve a significant reduction in a margin of safety.

Based on the above, the proposed change involves no significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and accordingly, a finding of no significant hazards consideration is justified.

Dated at Rockville, Maryland, this xx day of xxxxxxx, 2007.

For the Nuclear Regulatory Commission.

Project Manager.

Plant Licensing Branch [ ], Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E7–4675 Filed 3–13–07; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Board of Governors; Sunshine Act Meeting

Board Votes To Close March 6, 2007, Meeting

At its teleconference meeting on February 27, 2007, the Board of Governors of the United States Postal Service voted unanimously to close to public observation its meeting scheduled for March 6, 2007, in Washington, DC, via teleconference. The Board determined that prior public notice was not possible.

ITEM CONSIDERED: Postal Regulatory Commission Opinion and Recommended Decision in Docket No. R2006–1, Postal Rate and Fee Changes.

GENERAL COUNSEL CERTIFICATION: The General Counsel of the United States Postal Service has certified that the meeting was properly closed under the Government in the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION: Requests for information about the meeting should be addressed to the

Secretary of the Board, Wendy A. Hocking, at (202) 268–4800.

Wendy A. Hocking,

Secretary.

[FR Doc. 07–1234 Filed 3–12–07; 3:49 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–27749; 812–13295]

The RBB Fund, Inc. and Abundance Technologies, Inc.; Notice of Application

March 8, 2007.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 ("Act") for an exemption from sections 12(d)(1)(A) and (B) of the Act and under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: The order would permit certain series of a registered open-end management investment company to acquire shares of registered open-end management investment companies and unit investment trusts ("UITs") that are outside the same group of investment companies.

APPLICANTS: The RBB Fund, Inc. (the "Company") and Abundance Technologies, Inc. (the "Adviser").

FILING DATES: The application was filed on May 23, 2006 and amended on March 6, 2007. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

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. April 2, 2007, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090; Applicants, The RBB Fund, Inc., 400 Bellevue Parkway, Wilmington, DE 19809 and Abundance Technologies, Inc., 3700 Park 42 Drive, Suite 105A, Cincinnati, OH 42141.

FOR FURTHER INFORMATION, CONTACT: Jean E. Minarick, Senior Counsel, at (202) 551–6811, or Janet M. Grossnickle, Branch Chief, 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 Public Reference Desk, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington DC 20549–0102 (telephone (202) 551–5850).

Applicants' Representations

1. The Company is a Maryland corporation and an open-end management investment company registered under the Act that is comprised of eighteen separate series advised by various investment advisers, including the Adviser. The Company intends to establish three new series: Free Market U.S. Equity Fund, Free Market International Equity Fund and Free Market Fixed-Income Fund, each of which will be advised by the Adviser (each such series, a "Fund of Funds").[1]

2. Applicants request relief to permit a Fund of Funds to acquire shares of registered open-end management investment companies or UITs that are not part of the same group of investment companies as defined in Section 12(d)(1)(G)(ii) of the Act as the Fund of Funds ("Underlying Funds")[2] and the Underlying Funds to sell such shares to the Fund of Funds. Applicants also apply for an order pursuant to section 6(c) and section 17(b) of the Act exempting Applicants from section 17(a) of the Act to the extent necessary to permit purchases and redemptions by a Fund of Funds of shares of the Underlying Funds and to permit the Underlying Funds to sell or redeem their shares in transactions with the Funds of Funds.[3] Applicants state that each Fund of Funds will provide an efficient and simple method of allowing investors, with minimal investments, to create a comprehensive asset allocation program.

3. The Adviser, a privately-held Ohio corporation, is registered under the Investment Advisers Act of 1940. The Adviser serves, and will serve, as investment adviser to the Funds of Funds.

Applicants' Legal Analysis

A. Section 12(d)(1)

1. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter and any broker or dealer from selling the shares of the investment company to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

2. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Applicants seek an exemption under section 12(d)(1)(J) to permit the Funds of Funds to acquire shares of Underlying Funds and to permit the Underlying Funds, their principal underwriters and any broker or dealer to sell shares of the Underlying Funds to the Funds of Funds beyond the limits set forth in sections 12(d)(1)(A) and (B) of the Act.

3. Applicants state that the proposed arrangement will not give rise to the policy concerns underlying sections 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds,

[1] Applicants also request relief with respect to any future series of the Company for which the Adviser serves as investment adviser (included in the term "Fund of Funds.").

[2] The Underlying Funds may include UITs ("Underlying Trusts") and open-end management investment companies ("Underlying Management Companies") that have received exemptive relief to sell their shares on a national securities exchange at negotiated prices ("ETFs"). Shares of an ETF also may be purchased from the ETF in large aggregations by delivering a basket of specified securities to the ETF, and large aggregations of shares may be redeemed from an ETF in exchange for a basket of specified securities ("In-kind ETF Purchases and Redemptions").

[3] All Funds of Funds that currently intend to rely on the requested order are named as applicants. Any other investment company that relies on the order in the future will comply with the terms and conditions of the order.

excessive layering of fees, and overly complex fund structures. Accordingly, applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

4. Applicants state that the proposed arrangement will not result in undue influence by a Fund of Funds or its affiliated persons over an Underlying Fund. To limit the control that a Fund of Funds may have over an Underlying Fund, applicants propose a condition prohibiting: (a) The Adviser and any person controlling, controlled by or under common control with the Adviser, and any investment company and any issuer that would be an investment company but for section 3(c)(1) or section 3(c)(7) of the Act that is advised by the Adviser or any person controlling, controlled by or under common control with the Adviser (collectively, the "Group"), and (b) any investment adviser to a Fund of Funds that meets the definition of section 2(a)(20)(B) of the Act ("Sub-Adviser"), any person controlling, controlled by or under common control with the Sub-Adviser, and any investment company or issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised by the Sub-Adviser or any person controlling, controlled by or under common control with the Sub-Adviser (collectively, the "Sub-Adviser Group") from controlling an Underlying Fund within the meaning of section 2(a)(9) of the Act.

5. Applicants also propose conditions to preclude a Fund of Funds and its affiliated entities from taking advantage of an Underlying Fund. Under condition 2 no Fund of Funds or its Adviser, Sub-Adviser, promoter, principal underwriter or any person controlling, controlled by or under common control with any of these entities (each, a "Fund of Funds Affiliate") will cause any existing or potential investment by the Fund of Funds in shares of an Underlying Fund to influence the terms of any services or transactions between the Fund of Funds or a Fund of Funds Affiliate and the Underlying Fund or its investment adviser(s), sponsor, promoter, principal underwriter and any person controlling, controlled by or under common control with any of these entities (each, an "Underlying Fund Affiliate"). Condition 5 precludes a Fund of Funds and any Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Underlying Management Company or sponsor to an Underlying Trust) from causing an Underlying Fund to purchase a security in an offering of securities during the existence of any underwriting or selling syndicate of which a principal underwriter is an officer, director, member of an advisory board, Adviser, Sub-Adviser, or employee of the Fund of Funds, or a person of which any such officer, director, member of an advisory board, Adviser, Sub-Adviser, or employee is an affiliated person (each, an "Underwriting Affiliate," except any person whose relationship to the Underlying Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate). An offering of securities during the existence of any underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate is an "Affiliated Underwriting."

6. As an additional assurance that an Underlying Management Company understands the implications of an investment by a Fund of Funds under the requested order, prior to a Fund of Funds' investment in an Underlying Management Company in excess of the limit in section 12(d)(1)(A)(i), condition 8 requires that the Fund of Funds and the Underlying Management Company execute an agreement stating, without limitation, that their boards of directors or trustees and their investment advisers understand the terms and conditions of the order and agree to fulfill their responsibilities under the order ("Participation Agreement"). Applicants note that an Underlying Fund (other than an ETF whose shares are purchased by a Fund of Funds in the secondary market) will retain the right to reject an investment by a Fund of Funds.[4]

7. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. With respect to investment advisory fees, applicants state that, before approving any investment advisory contract under section 15 of the Act, the board of directors or trustees ("Board") of the Company, including a majority of the directors or trustees who are not "interested persons," as defined in section 2(a)(19) of the Act ("Disinterested Directors"), will find that the investment advisory fees charged under such contract are based on services provided that are in addition to, rather than duplicative of, services provided under the advisory contract(s) of any Underlying Fund in which the Fund of Funds may invest.

8. Applicants state that the proposed arrangement will not create an overly complex fund structure. Applicants note that an Underlying Fund will be prohibited from acquiring securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A), except to the extent that such Underlying Fund (a) receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the Act); or (b) acquires (or is deemed to have acquired) securities of one or more affiliated investment companies for short-term cash management purposes; or (ii) engage in interfund borrowing or lending transactions. Applicants also represent that a Fund of Funds' prospectus and sales literature will contain concise, "plain English" disclosure designed to inform investors of the unique characteristics of the proposed Fund of Funds structure, including, but not limited to, its expense structure and the additional expenses of investing in Underlying Funds. Each Fund of Funds also will comply with the disclosure requirements adopted in Investment Company Act Release No. 27399 (June 20, 2006).

B. Section 17(a)

5. Section 17(a) of the Act generally prohibits sales or purchases of securities between a registered investment company and any affiliated person of the company. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include (a) Any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; and (c) any person directly or indirectly controlling, controlled by, or under common control with the other person.

6. Applicants state that the Funds of Funds and the Underlying Funds might be deemed to be affiliated persons of one another if a Fund of Funds acquires 5% or more of an Underlying Fund's outstanding voting securities. In light of these possible affiliations, section 17(a) could prevent an Underlying Fund from selling shares to and redeeming shares from a Fund of Funds.[5]

[4] An Underlying Fund, including an ETF, would retain its right to reject any initial investment by a Fund of Funds in excess of the limit in section 12(d)(1)(A)(i) of the Act by declining to execute the Participation Agreement with the Fund of Funds.

[5] Applicants note that a Fund of Funds generally would purchase and sell shares of an Underlying

7. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any person or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

8. Applicants submit that the proposed transactions satisfy the standards for relief under sections 17(b) and 6(c) of the Act.[6] Applicants state that the terms of the transactions are fair and reasonable and do not involve overreaching. Applicants note that the terms upon which an Underlying Fund will sell its shares to or purchase its shares from a Fund of Funds will be based on the net asset value of the Underlying Fund. Applicants state that the proposed arrangement will be consistent with the policies of each Fund of Funds and Underlying Fund, and with the general purposes of the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The members of the Group will not control (individually or in the aggregate) an Underlying Fund within the meaning of section 2(a)(9) of the Act. The members of the Sub-Adviser Group will not control (individually or in the aggregate) an Underlying Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of an Underlying Fund, the Group or the Sub-Adviser Group, each in the aggregate, becomes a holder of more than 25% of the outstanding voting securities of the Underlying Fund, it will vote its shares of the Underlying Fund in the same proportion as the vote of all other holders of the Underlying Fund's shares. This condition shall not apply to the Sub-Adviser Group with respect to an Underlying Fund for which the Sub-Adviser or a person controlling, controlled by, or under common control with the Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act (in the case of an Underlying Management Company) or as the sponsor (in the case of an Underlying Trust).

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in shares of an Underlying Fund to influence the terms of any services or transactions between the Fund of Funds or a Fund of Funds Affiliate and the Underlying Fund or an Underlying Fund Affiliate.

3. The Board of the Company, including a majority of the Disinterested Directors, will adopt procedures reasonably designed to assure that the Adviser and any Sub-Adviser to the Fund of Funds are conducting the investment program of the Fund of Funds without taking into account any consideration received by the Fund of Funds or a Fund of Funds Affiliate from an Underlying Fund or an Underlying Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of an Underlying Management Company exceeds the limit of section 12(d)(1)(A)(i) of the Act, the Board of the Underlying Management Company, including a majority of the Disinterested Directors, will determine that any consideration paid by the Underlying Management Company to the Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (a) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Underlying Management Company; (b) is within the range of consideration that the Underlying Management Company would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (c) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between an Underlying Management Company and its investment adviser(s), or any person controlling, controlled by, or under common control with such investment adviser(s).

5. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Underlying Management Company or sponsor to an Underlying Trust) will cause an Underlying Fund to purchase a security in any Affiliated Underwriting.

6. The Board of an Underlying Management Company, including a majority of the Disinterested Directors, will adopt procedures reasonably designed to monitor any purchases of securities by the Underlying Management Company in Affiliated Underwritings, once an investment by a Fund of Funds in the securities of the Underlying Management Company exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in shares of the Underlying Management Company. The Board will consider, among other things: (a) Whether the purchases were consistent with the investment objectives and policies of the Underlying Management Company; (b) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (c) whether the amount of securities purchased by the Underlying Management Company in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to assure that purchases of securities in Affiliated Underwritings are in the best interests of shareholders.

7. Each Underlying Management Company shall maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and shall maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase from an Affiliated Underwriting occurred, the first two

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Fund that operates as an ETF through secondary market transactions at market prices rather than through principal transactions with the Underlying Fund at net asset value. Applicants would not rely on the requested relief from section 17(a) for such secondary market transactions. To the extent a Fund of Funds engages in In-Kind ETF Purchases and Redemptions, Applicants request relief from Section 17(a) for these transactions.

[6] Applicants acknowledge that receipt of any compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by the Fund of Funds of shares of an Underlying Fund or (b) an affiliated person of an Underlying Fund, or an affiliated person of such person, for the sale by the Underlying Fund of its shares to a Fund of Funds is subject to section 17(e) of the Act. The Participation Agreement also will include this acknowledgement.

years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by a Fund of Funds in the securities of an Underlying Management Company exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the determinations of the Board of the Underlying Management Company were made.

8. Prior to an investment in shares of an Underlying Management Company in excess of the limit in section 12(d)(1)(A)(i) of the Act, the Fund of Funds and the Underlying Management Company will execute a Participation Agreement stating, without limitation, that their Boards and their investment advisers understand the terms and conditions of the order and agree to fulfill their responsibilities under the order. At the time of its investment in shares of an Underlying Management Company in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Underlying Management Company of the investment. At such time, the Fund of Funds also will transmit to the Underlying Management Company a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Underlying Management Company of any changes to the list as soon as reasonably practicable after a change occurs. The Underlying Management Company and the Fund of Funds will maintain and preserve a copy of the order, the Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

9. Prior to approving any investment advisory agreement under section 15 of the Act with respect to a Fund of Funds, the Board of the Company, including a majority of the Disinterested Directors, will find that the advisory fees charged under such agreement are based on services provided that are in addition to, rather than duplicative of, the services provided under the investment advisory agreement(s) of any Underlying Fund in which the Fund of Funds may invest. The finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the Company.

10. The Adviser will waive fees otherwise payable to it by a Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to a plan adopted by an Underlying Management Company under rule 12b–1 under the Act) received from an Underlying Fund by the Adviser or an affiliated person of the Adviser, other than any advisory fees paid to the Adviser or its affiliated person by an Underlying Management Company, in connection with the investment by the Fund of Funds in the Underlying Fund. Any Sub-Adviser will waive fees otherwise payable to the Sub-Adviser, directly or indirectly, by the Fund of Funds in an amount at least equal to any compensation received from an Underlying Fund by the Sub-Adviser, or an affiliated person of the Sub-Adviser, other than any advisory fees paid to the Sub-Adviser or its affiliated person by an Underlying Management Company, in connection with the investment by the Fund of Funds in the Underlying Fund made at the direction of the Sub-Adviser. In the event that the Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Fund of Funds.

11. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to funds of funds set forth in NASD Conduct Rule 2830.

12. No Underlying Fund will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent that such Underlying Fund (i) receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading Section 12(d)(1) of the 1940 Act); or (ii) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting such Underlying Fund to (a) acquire securities of one or more affiliated investment companies for short-term cash management purposes, or (b) engage in interfund borrowing and lending transactions.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–4633 Filed 3–13–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55419; File No. SR–BSE–2007–10]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Exchange Fees and Charges

March 7, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 2007, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the BSE. The BSE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the BSE under Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The BSE proposes to amend the Minimum Activity Charge ("MAC") contained in the Fee Schedule for the Boston Options Exchange ("BOX"). The Exchange proposes to add an alternative calculation of the minimum activity charge called "MiniMAC." The text of the proposed rule change is available at the BSE, the Commission's Public Reference Room, and *http://www.bostonstock.com/legal/filings/2007-10.pdf.*

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 BSE 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 BSE has prepared summaries, set forth in Sections A, B,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the MAC which is contained in the Fee Schedule for BOX. Currently, in order to determine if a Market Maker has reached its MAC, volume in their assigned (and unassigned) classes is charged a flat fee, which is then compared to the MAC. The Exchange now proposes to establish an alternative calculation of the minimum activity charge called "MiniMAC."

The MiniMAC is the Minimum Activity Charge ("MAC") discounted at fifty percent and is payable if a per contract traded fee of $0.40 (or $0.30 per contract traded in the case of classes traded that are included in the Penny Pilot Program), when multiplied by the Market Maker's actual trade executions for the month, does not result in a total trading fee payable to BOX at least equal to the monthly total of 50% of the MAC (MiniMAC). If the MiniMAC is reached, the $0.40 per contract traded rate (or $0.30 per contract traded rate in the case of classes traded that are included in the Penny Pilot Program), will still be applied to the exceeding volume until MAC is reached. If the MAC is reached, the $0.20 per contract rate (or $0.15 per contract rate in the case of classes traded that are included in the Penny Pilot Program) will be applied to any exceeding volume.

The following examples illustrate BOX billing calculations assuming one category A assigned class with a MAC of $10,000 and three different levels of volume executed:

Example 1—Low Volume

MAC:	$10,000	MiniMAC:	$5,000		
Volume:	5,000	Volume:	5,000		
Volume at $0.20:	$1,000	Volume at $0.40:	$2,000	(5,000 contracts)	
		Volume at $0.20:	$0	(0 contracts)	
		Total	$2,000		
Subtotal A:	$10,000	Subtotal B:	$5,000		Final Charge: $5,000

Example 2—Mid Volume

MAC:	$10,000	MiniMAC:	$5,000		
Volume:	20,000	Volume:	20,000		
Volume at $0.20:	$4,000	Volume at $0.40:	$8,000	(20,000 contracts)	
		Volume at $0.20:	$0	(0 contracts)	
		Total	$8,000		
Subtotal A:	$10,000	Subtotal B:	$8,000		Final Charge: $8,000

Example 3—High Volume

MAC:	$10,000	MiniMAC:	$5,000		
Volume:	60,000	Volume:	60,000		
Volume at $0.20:	$12,000	Volume at $0.40:	$10,000	(25,000 contracts)	
		Volume at $0.20:	$7,000	(35,000 contracts)	
		Total	$17,000		
Subtotal A:	$12,000	Subtotal B:	$17,000		Final Charge: $12,000

BOX will apply whichever is lower, the MAC or the MiniMAC. The purpose of this proposed change is to provide for an alternative so that BOX is able to lower the fees for BOX Participants. The Exchange believes that the proposed change is necessary to equitably allocate the minimum activity charge fees to all of its Participants.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[5] in general, and Section 6(b)(4) of the Act,[6] in particular, which requires that an exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

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 comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b-4(f)(2)[8] thereunder because it changes a fee imposed by the Exchange. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

[5] 15 U.S.C. 78f(b).
[6] 15 U.S.C. 78f(b)(4).
[7] 15 U.S.C. 78s(b)(3)(A).
[8] 17 CFR 19b–4(f)(2).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–BSE–2007–10 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BSE–2007–10. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the BSE. 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–BSE–2007–10 and should be submitted on or before April 4, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–4588 Filed 3–13–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55418; File No. SR–CBOE–2007–22]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Increase the Class Quoting Limit in the Option Class NYSE Group, Inc. (NYX)

March 7, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 23, 2007, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(1) thereunder, which renders it effective upon filing with the Commission.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to increase the class quoting limit in the option class NYSE Group, Inc. (NYX). The text of the proposed rule change is available at the CBOE, the Commission's Public Reference Room, and *http://www.cboe.com*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. 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

CBOE Rule 8.3A, Maximum Number of Market Participants Quoting Electronically per Product, establishes class quoting limits ("CQLs") for each class traded on the Hybrid Trading System.[5] A CQL is the maximum number of quoters that may quote electronically in a given product and the current levels are established from 25–40, depending on the trading activity of the particular product.

Rule 8.3A, Interpretation .01(c) provides a procedure by which the President of the Exchange may increase the CQL for a particular product. In this regard, the President of the Exchange may increase the CQL in exceptional circumstances, which are defined in the rule as "* * * substantial trading volume, whether actual or expected."[6] The effect of an increase in the CQL is procompetitive in that it increases the number of market participants that may quote electronically in a product. The purpose of this filing is to increase the CQL in the option class NYSE Group, Inc. (NYX) from its current limit of 40 to 45.[7]

Increasing the CQL in NYX options will enable the Exchange to enhance the liquidity offered, thereby offering deeper and more liquid markets

2. Statutory Basis

CBOE believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.[8] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(1).

[5] *See* Rule 8.3A.01.

[6] "Any actions taken by the President of the

B. Self Regulatory Organization's Statement on Burden on Competition

CBOE 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 Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange neither solicited nor received written comments on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule, it has become effective pursuant to Section 19(b)(3)(A)[10] and Rule 19b–4(f)(1) thereunder.[11] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2007–22 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–CBOE–2007–22. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro/shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. 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–CBOE–2007–22 and should be submitted on or before April 4, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–4589 Filed 3–13–07; 8:45 am]

BILLING CODE 8010–01–P

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(1).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55421; File No. SR–NYSE–2007–19]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change To Waive Certain Listing Fees

March 8, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 22, 2007, 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, II, and III below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comment on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Section 902.02 of its Listed Company Manual (the "Manual") to provide that there shall be no initial listing fee applicable to (i) any company listing upon emergence from bankruptcy, or (ii) any company listing its primary class of common stock that is not listed on a national securities exchange but is registered under the Act. The amendment will also apply a separate cap for a limited period on fees payable by companies listing upon emergence from bankruptcy. If approved by the Commission, the amendments contained in this proposal will be applied retroactively as of the date of this filing.

The text of the proposed rule change is available on the Exchange's Web site (*http://www.nyse.com*), at the Exchange'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, NYSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Section 902.02 of the Manual to provide that there shall be no initial listing fee applicable to:

- Any company listing following emergence from bankruptcy; [3] or
- Any company listing its primary class of common stock that is not listed on a national securities exchange but is registered under the Act.

The amendment will also apply a separate cap for a limited period on fees

[3] The Exchange interprets "listing following emergence from bankruptcy" to mean that the company lists at the same time it emerges from bankruptcy. Telephone conversation between John Carey, Assistant General Counsel, NYSE, and Nathan Saunders, Special Counsel, Division of Market Regulation, Commission, March 6, 2007

payable by companies listing upon emergence from bankruptcy. If approved by the Commission, the amendments contained in this proposal will be applied retroactively as of the date of this filing.

Section 902.02 currently provides a cap of $500,000 for all fees (including both initial listing fees and annual fees) payable by any issuer during a calendar year. Under the proposed amendment, the total fees payable by an issuer that lists upon emergence from bankruptcy will be subject to a separate fee cap. Annual fees for any such issuer will be calculated quarterly for the fiscal quarter in which such issuer lists and in each of the succeeding 12 full fiscal quarters, at a rate of one-fourth of the applicable annual fee rate. The total fees (including initial listing fees and annual fees) that may be billed to such issuer during this period will be subject to a $25,000 cap in the fiscal quarter in which the issuer lists and in each of the succeeding 12 full fiscal quarters. This fee cap will subject to the same exclusions that apply in relation to the $500,000 per year fee cap described in Section 902.02 under the heading "Total Maximum Fee Payable in a Calendar Year." If there are one or more fiscal quarters remaining in the year after the conclusion of the period described in this paragraph, the issuer will, on a prorated basis, be billed the regular annual fee subject to the $500,000 total fee cap for the remainder of that year.

The proposed rule change will not affect the Exchange's commitment of resources to its regulatory oversight of the listing process or its regulatory programs. Specifically, companies that benefit from the waivers will be reviewed for compliance with Exchange listing standards in the same manner as any other company that applies to be listed on the Exchange. The Exchange will conduct a full and independent review of each issuer's compliance with the Exchange's listing standards.

In the case of companies listing upon emergence from bankruptcy, the Exchange believes that the initial listing fee waiver and proposed separate fee cap are justified by such companies' unique circumstances. Companies emerging from bankruptcy are typically not raising any new capital at the time of listing, so the payment of initial listing fees is more burdensome than for companies that are listing upon an initial public offering. Also, because of the desire in bankruptcy proceedings to ensure that creditors are paid as much as possible, such companies are much more sensitive to both the initial and continued costs associated with listing. It is frequently difficult for such companies to assess what those costs are going to be until quite close to their emergence from bankruptcy, as the number of shares that will be issued (and therefore the related listing fees) are a significant variable in the negotiation of the bankruptcy settlement. As (a) bankrupt companies face unique challenges in the listing process, (b) the number of companies that will benefit from the fee waiver and lower fee cap applicable to bankrupt companies will be very limited, and (c) the fee cap will apply only to a three-year transitional period, the Exchange does not believe that the treatment this proposal would afford to bankrupt companies constitutes an inequitable or unfairly discriminatory allocation of fees.

The Exchange anticipates that a significant percentage of potential listings of companies that have a registered class of common stock but that are not currently listed on a national securities exchange will be formerly listed companies that were delisted as a result of a failure to timely file annual reports with the Commission. These are companies that were otherwise in good standing with the Exchange or with another national securities exchange, but fell behind on their reporting obligations under the Act because their auditors or the Commission required restatements of their financial statements. These companies will re-list on the Exchange as soon as their filings are up to date. The Exchange believes that waiving initial listing fees for these companies is appropriate and does not constitute an inequitable or unfairly discriminatory allocation of fees, as such companies had previously paid initial listing fees to the Exchange or to another national securities exchange, and to make them pay these fees again would further penalize them unnecessarily.

The Exchange does not expect the financial impact of this proposed rule change to be material, either in terms of increased levels of annual fees from transferring issuers or in terms of diminished initial listing fee revenues. A very limited number of companies are qualified and seek to list on the Exchange that are either emerging from bankruptcy or have a registered class of common stock but are not currently listed on another market. Accordingly, the proposed rule change will not impact the Exchange's resource commitment to its regulatory oversight of the listing process or its regulatory programs.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirement under Section 6(b)(4)[4] of the Act that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities and the requirement under Section 6(b)(5)[5] of Act that an exchange have rules that are designed to remove impediments to and perfect the mechanism of a free and open market and a national market system and that are not designed to permit unfair discrimination between issuers. In light of the unique circumstances of companies emerging from bankruptcy and the likelihood that many companies listing that have a registered class of common stock but are not listed on another market will be previously listed companies delisted as late filers, the Exchange believes that the proposed fee waiver does not render the allocation of its listing fees inequitable or unfairly discriminatory.

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

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing,

[4] 15 U.S.C. 78f(b)(4).

[5] 15 U.S.C. 78f(b)(5).

including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2007–19 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–2007–19. 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 Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2007–19 and should be submitted on or before April 4, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–4587 Filed 3–13–07; 8:45 am]

BILLING CODE 8010–01–P

[6] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 5722]

Culturally Significant Objects Imported for Exhibition; Determinations: "Ike Taiga and Tokuyama Gyokuran: Japanese Masters of the Brush"

Summary: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "Ike Taiga and Tokuyama Gyokuran: Japanese Masters of the Brush", imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Philadelphia Museum of Art, Philadelphia, Pennsylvania, from on or about May 1, 2007, until on or about July 22, 2007, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

For Further Information Contact: For further information, including a list of the exhibit objects, contact Paul Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: (202) 453–8050). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: March 5, 2007.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E7–4661 Filed 3–13–07; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5723]

Culturally Significant Objects Imported for Exhibition; Determinations: "Richard Serra Sculpture: Forty Years"

Summary: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 (68 FR 19875), I hereby determine that the objects to be included in the exhibition "Richard Serra Sculpture: Forty Years", imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Museum of Modern Art, New York, New York, from on or about June 3, 2007, until on or about September 10, 2007, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

For Further Information Contact: For further information, including a list of the exhibit objects, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: (202) 453–8050). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: March 5, 2007.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E7–4658 Filed 3–13–07; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5721]

Culturally Significant Objects Imported for Exhibition; Determinations: "Royal Portraits of Celebration"

Summary: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition

"Royal Portraits of Celebration", imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the National Portrait Gallery, Smithsonian Institution, Washington, DC, from on or about April 27, 2007, until on or about September 3, 2007, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

For Further Information Contact: For further information, including a list of the exhibit objects, contact Paul Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: (202) 453–8050). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: March 5, 2007.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E7–4660 Filed 3–13–07; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending March 2, 2007

The following Agreements were filed with the Department of Transportation under the Sections 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1383 and 1384) and procedures governing proceedings to enforce these provisions. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2007–27396.
Date Filed: February 26, 2007.
Parties: Members of the International Air Transport Association.
Subject:
TC23 Middle East—TC3 Resolutions. (Memo 0305)
Minutes: TC32 Middle East—TC3 Resolutions (Memo 0317)
Intended effective date: 1 April 2007.

Docket Number: OST–2007–27397.
Date Filed: February 26, 2007.
Parties: Members of the International Air Transport Association.
Subject:
TC23 Africa—TC3.
Areawide Resolutions (Memo 0314)
Minutes: TC23 Middle East, Africa—TC3 Passenger Tariff Coordinating Conference (Memo 0321)
Intended effective date: 1 April 2007.

Docket Number: OST–2007–27424.
Date Filed: February 27, 2007.
Parties: Members of the International Air Transport Association.
Subject:
TC23 Middle East—South Asian Subcontinent.
Resolutions and Fares Tables (Memo 0309)
Minutes: TC32 Middle East—TC3 Resolutions (Memo 0317)
Intended effective date: 1 April 2007.

Docket Number: OST–2007–27425.
Date Filed: February 27, 2007.
Parties: Members of the International Air Transport Association.
Subject:
TC23 Middle East—South West Pacific.
Resolutions and Fares Tables (Memo 0304)
Minutes: TC32 Middle East—TC3 Resolutions (Memo 0317)
Intended effective date: 1 April 2007.

Docket Number: OST–2007–27426.
Date Filed: February 27, 2007.
Parties: Members of the International Air Transport Association.
Subject:
TC23 Middle East—South West Pacific.
Resolutions and Fares Tables (Memo 0304)
Minutes: TC32 Middle East—TC3 Resolutions (Memo 0317)
Intended effective date: 1 April 2007.

Docket Number: OST–2007–27450.
Date Filed: March 1, 2007.
Parties: Members of the International Air Transport Association.
Subject:
Resolution 015h.
USA Add-ons between USA and UK (Memo 0202)
Intended effective date: 1 April 2007.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E7–4636 Filed 3–13–07; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending March 2, 2007

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2007–27402.
Date Filed: February 26, 2007.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 19, 2007.
Description: Application of Porter Airlines Inc. requesting and foreign air carrier permit authorizing scheduled air transportation of persons, property and mail between a point or points in Canada on the one hand, and a point or points in the United States, on the other hand.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E7–4637 Filed 3–13–07; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket Nos. FMCSA–00–7363, FMCSA–04–17984, FMCSA–04–18885]

Qualification of Drivers; Exemption Renewals; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA previously announced its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 8 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has reviewed the comments submitted in response to the previous announcement and concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Chief, Physical

Qualifications Division, (202) 366–4001, *maggi.gunnels@dot.gov*, FMCSA, Department of Transportation, 400 Seventh Street, SW., Room 8301, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Document Management System (DMS) at *http://dmses.dot.gov.*

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The statute also allows the Agency to renew exemptions at the end of the 2-year period. The comment period ended on February 2, 2007.

Discussion of Comments

FMCSA received two comments in these proceedings. The comments were considered and discussed below.

Ms. Sachau believes that the approval or renewal of vision exemptions make the roads much more dangerous.

A review of each record for safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption standards. To evaluate the effect of these exemptions on safety, FMCSA considered not only the medical reports about the applicants' vision, but also their driving records and experience with the vision deficiency. To qualify for an exemption from the vision standard, FMCSA requires a person to present verifiable evidence that he or she has driven a commercial vehicle safely with the vision deficiency for 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at docket number FMCSA–98–3637.

Advocates for Highway and Auto Safety (Advocates) expressed opposition to FMCSA's policy to grant exemptions from the FMCSR, including the driver qualification standards. Specifically, Advocates: (1) Objects to the manner in which FMCSA presents driver information to the public and makes safety determinations; (2) objects to the Agency's reliance on conclusions drawn from the vision waiver program; (3) claims the Agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. 31136(e) and 31315); and finally (4) suggests that a 1999 Supreme Court decision affects the legal validity of vision exemptions.

The issues raised by Advocates were addressed at length in 64 FR 51568 (September 23, 1999), 64 FR 66962 (November 30, 1999), 64 FR 69586 (December 13, 1999), 65 FR 159 (January 3, 2000), 65 FR 57230 (September 21, 2000), and 66 FR 13825 (March 7, 2001). We will not address these points again here, but refer interested parties to those earlier discussions.

Conclusion

The Agency has not received any adverse evidence on any of these drivers that indicates that safety is being compromised. Based upon its evaluation of the 8 renewal applications, FMCSA renews the Federal vision exemptions for David D. Bungori, Jr., David R. Cox, Timothy A. DeFrange, Robert T. Hill, Francisco J. Jimenez, Robert B. Schmitt, Rick N. Ulrich, and Larry D. Wedekind.

In accordance with 49 U.S.C. 31136(e) and 31315, each renewal exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: March 7, 2007.

Larry W. Minor,

Office Director, Bus and Truck Standards Operations.

[FR Doc. E7–4634 Filed 3–13–07; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Product Development

Although not required, notice is hereby given that the Federal Railroad Administration (FRA) has received a Notice of Product Development (NPD) from the Union Pacific Railroad Company (UP), pursuant to Title 49 Code of Federal Regulations (CFR) Section 236.913(d)(1) for Phases 1 and 2 of the development of a Communications Based Train Control (CBTC) system. A brief summary of the NPD, including the party submitting it, and the requisite docket number are as follows.

Union Pacific Railroad Company

[Waiver Docket Number FRA–2007–27322]

UP submitted an NPD of its CBTC system for Phases 1 and 2. The proposed CBTC system is a safety-critical, microprocessor-based system, designed to provide the enforcement of movement authorities and speed restrictions for CBTC-equipped locomotives, and provide the locomotive engineer an assist function to optimize train handling. Phase 1 of the CBTC is a non-vital safety overlay based on BNSF's Electronic Train Management System, previously approved under Docket Number FRA–2006–23687. Phase 2 of the CBTC implements the functionality of Phase 1 using a vital onboard architecture.

Interested parties are invited to review the notification and associated documents at the following locations:

- *Web site: http://dms.dot.gov.* Follow the instructions for a simple search on the DOT electronic docket site; and/or
- DOT Central Docket Management Facility, 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.

All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site, *http://dms.dot.gov.*

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78). The Statement may also be found at *http://dms.dot.gov.*

Issued in Washington, DC, on March 7, 2007.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E7–4581 Filed 3–13–07; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–9779; Notice 3]

Reports, Forms and Record Keeping Requirements, Agency Information Collection Activity Under OMB Review

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

ACTION: Notice.

SUMMARY: Before a Federal agency can collect certain information from the public, the agency must receive approval from the Office of Management and Budget ("OMB"). Under procedures established by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections. In compliance with the Paperwork Reduction Act of 1995, this notice describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be submitted on or before May 14, 2007.

ADDRESSES: Comments must refer to the docket number cited at the beginning of this notice and be submitted to Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Please identify the proposed collection of information for which a comment is provided by addressing its OMB Clearance Number. You may also submit your comments to the docket electronically. Documents may be filed electronically by logging onto the Docket Management System Web site at *http://dms.dot.gov.* Click on "Help & Information" or "Help/Info" to obtain instructions for filing the document electronically.

You may call Docket Management at 202–366–9324. You may visit the Docket from 10 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For questions contact Michael Kido in the Office of the Chief Counsel at the National Highway Traffic Safety Administration, telephone (202) 366–5263. Please identify the relevant collection of information by referring to its OMB Clearance Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected; and

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

In compliance with these requirements, NHTSA asks public comment on the following proposed collection of information:

Criminal Penalty Safe Harbor Provision

Type of Request—Extension of clearance.

OMB Clearance Number—2127–0609.

Form Number—This collection of information uses no standard forms.

Requested Expiration Date of Approval—Three (3) years from the date of approval of the collection.

Summary of the Collection of Information—Each person seeking safe harbor protection from criminal penalties under 49 U.S.C. 30170 related to an improper report or failure to report is required to submit the following information to NHTSA: (1) A signed and dated document that identifies (a) each previous improper report and each failure to report as required under 49 U.S.C. 30166, including a regulation, requirement, request or order issued thereunder, for which protection is sought and (b) the specific predicate under which the improper or omitted report should have been provided; and (2) the complete and correct information that was required to be submitted but was improperly submitted or was not previously submitted, including relevant documents that were not previously submitted to NHTSA or, if the person cannot do so, provide a detailed description of that information and/or the content of those documents and the reason why the individual cannot provide them to NHTSA. *See* 49 U.S.C. 30170(a)(2) *and* 49 CFR 578.7. *See also*, 66 FR 38380 (July 24, 2001) (safe harbor final rule) *and* 65 FR 81414 (Dec. 26, 2000) (safe harbor interim final rule).

Description of the Need for the Information and Use of the Information—This information collection was mandated by Section 5 of the Transportation Recall Enhancement, Accountability, and Documentation Act, codified at 49 U.S.C. 30170(a)(2). The information collected will provide NHTSA with information the agency should have received previously and will also promptly provide the agency with correct information to do its analyses, such as, for example, conducting tests or drawing conclusions about possible safety-related defects. NHTSA anticipates using this information to help it to accomplish its statutory assignment of identifying safety-related defects in motor vehicles and motor vehicle equipment and, when appropriate, seeking safety recalls.

Description of the Likely Respondents, Including Estimated Number and Proposed Frequency of Response to the Collection of Information—This collection of information applies to any person who seeks a "safe harbor" from potential criminal liability for knowingly and willfully acting with the specific intention of misleading the Secretary by an act or omission that violates section 1001 of title 18 with respect to the reporting requirements of 49 U.S.C. 30166, regarding a safety-related defect in motor vehicles or motor vehicle equipment that caused death or serious bodily injury to an individual. Thus, the collection of information applies to the manufacturers, and any officers or employees thereof, who respond or have a duty to respond to an information provision requirement pursuant to 49 U.S.C. 30166 or a regulation, requirement, request or order issued thereunder.

We believe that there will be very few criminal prosecutions under section 30170, given its elements. Since the safe harbor related rule has been in place, the agency has not received any reports. Accordingly, it is not likely to be a substantial motivating force for a submission of a proper report. We estimate that no more than one such person a year would invoke this new collection of information, and we do not anticipate receiving more than one report a year from any particular person.

Estimate of the Total Annual Reporting and Recordkeeping Burdens

Resulting from the Collection of Information—2 hours.

As stated before, we estimate that no more than one person a year would be subject to this new collection of information. Incrementally, we estimate that on average it will take no longer than two hours for a person to compile and submit the information we are requiring to be reported. Therefore, the total burden hours on the public per year is estimated to be a maximum of two hours.

Since nothing in the rule requires those persons who submit reports pursuant to this rule to keep copies of any records or reports submitted to us, recordkeeping costs imposed would be zero hours and zero costs.

Authority: 44 U.S.C. 3506; delegation of authority at 49 CFR 1.50.

Issued on: March 8, 2007.

Anthony M. Cooke,

Chief Counsel.

[FR Doc. E7–4582 Filed 3–13–07; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket No. NHTSA–2007–27523]

Reports, Forms, and Recordkeeping Requirements

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

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections. This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before May 14, 2007.

ADDRESSES: Direct all written comments to U.S. Department of Transportation Dockets, 400 Seventh Street SW., 401, Washington, DC 20590. Docket No. NHTSA–2007–27523.

FOR FURTHER INFORMATION CONTACT: Ms. Laurie Flaherty, Program Analyst, Office of Emergency Medical Services, National Highway Traffic Safety Administration, 400 Seventh Street SW, NTI–140, Room 5130, Washington, DC 20590. (202) 366–2705 or via e-mail at *laurie.flaherty@dot.gov*.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60 day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses. In compliance with these requirements, NHTSA asks public comment on the following proposed collection of information:

Request for Information, National E9–1–1 Implementation Coordination Office (National 9–1–1 Office)

Type of Request—New information collection requirement.

OMB Clearance Number—N/A.

FORM Number—This collection of information uses no standard forms.

Requested Expiration Date of Approval—Three years from date of approval.

Summary of the Collection of Information—NHTSA, in cooperation with the National Telecommunications and Information Administration (NTIA), (Department of Commerce), is proposing to issue annual RFIs, seeking comments from all sources (public, private, governmental, academic, professional, public interest groups, and other interested parties) on operational priorities for the National Enhanced 9–1–1 Implementation Coordination Office (National 9–1–1 Office). The National 9–1–1 Office was established by NHTSA and NTIA as directed by the Ensuring Needed Help Arrives Near Callers Employing 911 Act of 2004 (ENHANCE 911 Act of 2004), 47 U.S.C. 942.

The ENHANCE 911 Act of 2004 authorized two fundamental changes in Federal 9–1–1 responsibilities:

- Formal program and policy coordination across Federal agencies.
- Federal support to Public Safety Answering Points and related State and local agencies for E9–1–1 deployment and operations.

Congress stated the importance of enhanced 9–1–1 service in the Act, finding that "enhanced 911 is a high national priority and it requires Federal leadership, working in cooperation with State and local governments and with the numerous organizations dedicated to delivering emergency communications services." NHTSA and NTIA intend to use the National 9–1–1 Office to work cooperatively with public and private 9–1–1 stakeholders to establish a vision for the future of 9–1–1 services in the Nation. The RFIs will solicit comments on the priorities and strategies of the National 9–1–1 Office to accomplish its functions, goals and vision. In addition, the RFIs will obtain expressions of interest in participating as partners and will request responses to specific questions, including critical 9–1–1 issues, benefits to stakeholders, available data and methods of collection, etc. These RFIs will NOT seek comment on the grant program authorized to be administered by the National 9–1–1 Office. The RFIs will not include requests for proposals or invitations for bids.

Description of the Need for the Information and Proposed Use of the Information—The 9–1–1 constituency is a diverse group of entities, including:

Government Agencies:

- Local, State and Federal policy, regulation, and funding agencies
- Local and State emergency communications agencies
- Local, State and Federal emergency response agencies

Non-Governmental Organizations:

- Professional and industry associations
- Standards Development Organizations
- Citizen and special interest advocacy organizations
- Private emergency response and recovery organizations
- Research and academic organizations

IT/Telecommunications Service Providers:

- "Traditional" telecommunication service providers

- "Public Safety/emergency" service providers
- "Other" IT/telecommunication application service providers
- IP-network access infrastructure/ service providers

IT/Telecommunications Equipment Providers:

- Equipment and support service suppliers to "traditional" telecommunication companies.
- Equipment and support service suppliers to IT network providers.
- "Public Safety/emergency services network" equipment providers.
- Personal communication device providers

Third Party Emergency Call Centers:

- Third party service providers such as telematics, poison control, medical alert, central alarm monitoring, relay services, and N9–1–1 services

In order to collect information needed to develop and implement effective strategies that meet the National 9–1–1 Office's mandate to provide leadership, coordination, guidance and direction to the enhancement of the Nation's 9–1–1 services, NHTSA, in cooperation with NTIA, must utilize efficient and effective means of eliciting the input and opinions of its constituency groups. If approved, the proposed annual RFIs would assist the National 9–1–1 Office in addressing the myriad of issues posed by implementing new technologies in 9–1–1 services in a systematic, prioritized fashion, with active involvement of its constituency in this process. The results of the proposed annual RFIs would be used to: (1) Identify areas to target programs and activities to achieve the greatest benefit; (2) develop programs and initiatives aimed at cooperative efforts to Enhance 9–1–1 services nationwide; and (3) to provide informational support to States, regions, and localities in their own efforts to Enhance 9–1–1 services.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)— Under this proposed effort, the National 9–1–1 Office would issue annual RFIs, seeking responses to specific questions and soliciting comments on the priorities and strategies used by the National 9–1–1 Office to accomplish its agreed functions, goals and vision, to obtain expressions of interest in participating as partners. The various entities included in the constituency of the National 9–1–1 Office would be notified of the issuance of each RFI. Likely respondents would include companies, agencies and organizations from all of the constituency groups listed above, particularly local and State emergency communications agencies, professional and industry associations, "traditional" telecommunication service providers, "public safety/emergency" service providers and special interest advocacy organizations. The total number of respondents is estimated at 30 to 40.

Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting From the Collection of Information—NHTSA estimates that responses to the questions included in the proposed RFIs would require an average of one hour to complete, for a total of 40 to 50 hours. The respondents would not incur any reporting costs from the information collection. The respondents also would not incur any recordkeeping burden or recordkeeping costs from the information collection.

(Authority: 44 U.S.C. 3506(c) (2) (A); 47 U.S.C. 942)

Issued on: March 8, 2007.

Marilena Amoni,

Associate Administrator, Research and Program Development.

[FR Doc. E7–4584 Filed 3–13–07; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 9, 2007.

The Department of 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 April 13, 2007 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1876.

Type of Review: Extension.

Title: REG–166012–02 (NPRM) Notional Contracts; Contingent Nonperiodic Payments.

Description: The collection of information in the proposed regulations is in Sec. 1.446–3(g)(6)(vii) of the Income Tax Regulations, requiring Taxpayers to maintain in their books and records a description of the method used to determine the projected amount of a contingent payment, the projected payment schedules, and the adjustments taken into account under the proposed regulations. The information is required by the IRS to verify compliance with section 446 of the Internal Revenue Code and the method of accounting described in Sec. 1.446–3(g)(6).

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 25,500 hours.

OMB Number: 1545–2032.

Type of Review: Extension.

Title: Income Verification Express Service Application and Employee Delegation Form.

Form: 13803.

Description: Form 13803, Income Verification Express Service Application and Employee Delegation Form, is used to submit the required information necessary to complete the e-services enrollment process for IVES users and to identify delegates receiving transcripts on behalf of the principle account user.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 100 hours.

OMB Number: 1545–1866.

Type of Review: Extension.

Title: U.S. Corporation Income Tax Declaration for an IRS e-file Return.

Form: 8453C.

Description: Form 8453-C is used to enable the electronic filing of Form 1120.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 14,040 hours.

OMB Number: 1545–1565.

Type of Review: Extension.

Title: Notice 97–64 Temporary Regulations To Be Issued Under Section 1(h) of the Internal Revenue Code (Applying Section 1(h) to Capital Gain Dividends of RICs and REITs).

Description: Notice 97–64 provides notice of forthcoming temporary regulations that will permit Regulated Investment Companies (RICs) and Real Estate Investment Trusts (REIT) to distribute multiple classes of capital gain dividends.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 1 hour.

OMB Number: 1545–1455.

Type of Review: Extension.

Title: PS–80–93 (Final) Rules for Certain Rental Real Estate Activities.

Description: The regulation provides rules relating to the treatment of rental

real estate activities of certain taxpayers under the passive activity loss and credit limitations on Internal Revenue Code section 469.

Respondents: Individuals or Households.

Estimated Total Burden Hours: 3,015 hours.

OMB Number: 1545–1863.
Type of Review: Extension
Title: IRS e-file Signature Authorization for Form 1120S.
Form: 8879S

Description: Form 8879-S authorizes an officer of a corporation and an electronic return originator (ERO) to use a personal identification number (PIN) to electronically sign a corporation's electronic income tax return and, if applicable, Electronic Funds Withdrawal Consent.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 74,181 hours.

OMB Number: 1545–0117.
Type of Review: Extension.
Title: Original Issue Discount.
Form: 1099-OID.

Description: Form 1099–OID is used for reporting original issue discount as required by section 6049 of the Internal Revenue Code. It is used to verify that income earned on discount obligations is properly reported by the recipient.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 1,142,324 hours.

OMB Number: 1545–0429.
Type of Review: Extension.
Title: Requst for Copy of Tax Return.
Form: 4506.

Description: 26 U.S.C. 7513 allows for taxpayers to request a copy of a tax return. Form 4506 is used by a taxpayer to request a copy of a Federal tax form. The information provided will be used for research to locate the tax form and to ensure that the requester is the taxpayer or someone authorized by the taxpayer.

Respondents: Individuals or Households.

Estimated Total Burden Hours: 260,000 hours.

Clearance Officer: Glenn P. Kirkland (202) 622–3428, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Michael A. Robinson,

Treasury PRA Clearance Officer.

[FR Doc. E7–4667 Filed 3–13–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Proposed Information Collection; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning an extension of OMB approval of the information collection titled, "Disclosure of Financial and Other Information by National Banks (12 CFR 18)."

DATES: Comments must be submitted on or before May 14, 2007.

ADDRESSES: Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1–5, *Attention:* 1557–0182, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–4448, or by electronic mail to *regs.comments@occ.treas.gov*. You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874–5043.

Additionally, you should send a copy of your comments to OCC Desk Officer, 1557–0182, by mail to U.S. Office of Management and Budget, 725 17th Street, NW., #10235, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: You may request additional information or a copy of the collection and supporting documentation submitted to OMB by contacting: Mary Gottlieb or Camille Dickerson, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Title: Disclosure of Financial and Other Information by National Banks (12 CFR 18).

OMB Control No.: 1557–0182.

Type of Review: Extension, without revision, of a currently approved collection.

Description: The collections of information are found in 12 CFR 18.4(c) and 18.8. Section 18.4(c) permits a bank to prepare an optional narrative for inclusion in its annual disclosure statement. Section 18.8 requires that a national bank promptly furnish materials in response to a request.

The regulation applies to approximately 1,800 national banks and 50 Federal branches and agencies. Most banks will use their Call Reports or information prepared for annual reports as their disclosure material.

This program of periodic financial disclosure is needed, not only to facilitate informed decision making by existing and potential customers and investors, but also to improve public understanding of, and confidence in, the financial condition of individual national banks and the national banking system. Further, financial disclosure reduces the likelihood that the market will overreact to incomplete information.

Affected Public: Businesses or other for-profit.

Burden Estimates:

Estimated Number of Respondents: 1,850.

Estimated Number of Responses: 1,850.

Estimated Annual Burden: 925 hours.

Frequency of Response: On occasion.

Comments: Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. *Comments are invited on:*

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: March 8, 2007.

Stuart Feldstein,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

[FR Doc. E7–4597 Filed 3–13–07; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Proposed Information Collection; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning an extension of OMB approval of the information collection titled, "(MA) Real Estate Lending and Appraisals (12 CFR 34)."

DATES: Comments must be submitted on or before May 14, 2007.

ADDRESSES: Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1–5, *Attention:* 1557–0190, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–4448, or by electronic mail to *regs.comments@occ.treas.gov.* You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874–5043.

Additionally, you should send a copy of your comments to OCC Desk Officer, 1557–0190, by mail to U.S. Office of Management and Budget, 725 17th Street, NW., #10235, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: You may request additional information or a copy of the collection and supporting documentation submitted to OMB by contacting: Mary Gottlieb or Camille Dickerson, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Title: (MA) Real Estate Lending and Appraisals (12 CFR 34).

OMB Control No.: 1557–0190.

Type of Review: Extension, without revision, of a currently approved collection.

Description: Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), 12 U.S.C. 3331 *et seq.*, directs the Federal banking agencies to publish appraisal rules for federally related transactions. This submission covers those statutorily required appraisal rules. These regulations are required by statute and are used by the agencies to ensure the safe and sound operation of financial institutions.

National banks must review and maintain records required under 12 CFR Part 34 Subpart C (Appraisal Requirements) and Subpart D (Real Estate Lending Standards) and file the reports required by Subpart E (Other Real Estate Owned).

Affected Public: Businesses or other for-profit.

Burden Estimates:

Estimated Number of Respondents: 1,800.

Estimated Number of Responses: 3,610.

Estimated Annual Burden: 99,050 hours.

Frequency of Response: On occasion.

Comments: Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: March 8, 2007.

Stuart Feldstein,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

[FR Doc. E7–4599 Filed 3–13–07; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[LR–77–86]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing temporary regulation, LR–77–86 (TD 8124), Certain Elections Under the Tax Reform Act of 1986 (§ 5h.5).

DATES: Written comments should be received on or before May 14, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carolyn N. Brown at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–6688, or through the internet at *Carolyn.N.Brown@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Certain Elections Under the Tax Reform Act of 1986.

OMB Number: 1545–0982.

Regulation Project Numbers: LR–77–86.

Abstract: Section 5h.5(a) of this regulation sets forth general rules for the time and manner of making various elections under the Tax Reform Act of 1986. The regulation enables taxpayers to take advantage of various benefits provided by the Internal Revenue Code.

Current Actions: There are no changes to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Individuals or households, Business or other for-profit organizations, Not-for-profit institutions, Farms, and State, Local, or Tribal Governments.

Estimated Number of Respondents: 114,710.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 28,678.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 5, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–4601 Filed 3–13–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[LR–209–76]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, LR–209–76 (TD 7941), Special Lien for Estate Taxes Deferred Under Section 6166 or 6166A (Section 301.6324A–1).

DATES: Written comments should be received on or before May 14, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Carolyn N. Brown at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–6688, or through the Internet at (*Carolyn.N.Brown@irs.gov*).

SUPPLEMENTARY INFORMATION:

Title: Special Lien for Estate Taxes Deferred Under Section 6166 or 6166A.

OMB Number: 1545–0757. Regulation Project Number: LR–209–76.

Abstract: Internal Revenue Code section 6324A permits the executor of a decedent's estate to elect a lien on section 6166 property in favor of the United States in lieu of a bond or personal liability if an election under section 6166 was made and the executor files an agreement under section 6324A(c). This regulation clarifies the procedures for complying with the statutory requirements.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and Business or other for-profit organizations.

Estimated Number of Respondents: 34,600.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 8,650.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 7, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–4602 Filed 3–13–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–209446–82]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort

to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–209446–82 (TD 8852), Passthrough of Items of an S Corporation to its Shareholders (§ 1.1366–1).

DATES: Written comments should be received on or before May 14, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of regulation should be directed to Carolyn N. Brown at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–6688, or through the Internet at Carolyn.N.Brown@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Passthrough of Items of an S Corporation to its Shareholders.

OMB Number: 1545–1613.

Regulation Project Number: REG–209446–82.

Abstract: Section 1366 requires shareholders of an S corporation to take into account their pro rata share of separately stated items of the S corporation and nonseparately computed income or loss. Section 1.1366–1 of the regulation provides that an S corporation must report, and a shareholder is required to take into account in the shareholder's return, the shareholder's pro rata share, whether or not distributed, of the S corporation's items of income, loss, deduction, or credit.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and Individuals or households.

This reporting requirement is reflected in the burden of Form 1040, U.S. Individual Income Tax Return, and Form 1120S, U.S. Income Tax Return for an S Corporation.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 6, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–4603 Filed 3–13–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[EE–12–78]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, EE–12–78 (TD 7611) Nonbank Trustees (§ 1.408–2(e)).

DATES: Written comments should be received on or before May 14, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carolyn N. Brown, at (202) 622–6688, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Carolyn.N.Brown@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Nonbank Trustees.

OMB Number: 1545–0806.

Regulation Project Number: EE–12–78.

Abstract: Internal Revenue Code section 408(a)(2) permits an institution other than a bank to be the trustee of an individual retirement account. This regulation imposes certain reporting and recordkeeping requirements to enable the IRS to determine whether an institution qualifies to be a nonbank trustee and to insure that accounts are administered according to sound fiduciary principles.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 23.

Estimated Time per Respondent: 34 minutes.

Estimated Total Annual Burden Hours: 13.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of

the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 5, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–4605 Filed 3–13–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5330

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5330, Return of Excise Taxes Related to Employee Benefit Plans.

DATES: Written comments should be received on or before May 14, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carolyn N. Brown at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–6688, or through the Internet at (*Carolyn.N.Brown@irs.gov*).

SUPPLEMENTARY INFORMATION:

Title: Return of Excise Taxes Related to Employee Benefit Plans.

OMB Number: 1545–0575.

Form Number: Form 5330.

Abstract: Internal Revenue Code sections 4971, 4972, 4973(a), 4975, 4976, 4977, 4978, 4978A, 4978B, 4979, 4979A, and 4980 impose various excise taxes in connection with employee benefit plans. Form 5330 is used to compute and collect these taxes. The IRS uses the information on the form to verify that the proper amount of tax has been reported.

Current Actions: Major changes were made to the form and instructions to better serve the taxpayers. These changes resulted in an increase in burden hours.

Type of Review: Revision of a currently approved collection.

Affected Pubic: Individuals and business or other for-profit organizations.

Estimated Number of Respondents: 8,403.

Estimated Time per Respondent: 56 hours, 55 minutes.

Estimated Total Annual Burden Hours: 478,215.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 2, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–4610 Filed 3–13–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 2032

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 2032, Contract Coverage Under Title II of the Social Security Act.

DATES: Written comments should be received on or before May 14, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carolyn N. Brown at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–6688, or through the Internet at (*Carolyn.N.Brown@irs.gov*).

SUPPLEMENTARY INFORMATION:

Title: Contract Coverage Under Title II of the Social Security Act.

OMB Number: 1545–0137.

Form Number: 2032.

Abstract: Citizens and resident aliens employed abroad by foreign affiliates of American employers are exempt from social security taxes. Under Internal Revenue Code section 3121(1), American employers may file an agreement to waive this exemption and obtain social security coverage for U.S. citizens and resident aliens employed abroad by their foreign affiliates. Form 2032 is used for this purpose.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households and Business or other for-profit organizations.

Estimated Number of Respondents: 160.

Estimated Time per Respondent: 3 hours, 25 minutes.

Estimated Total Annual Burden Hours: 546.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 1, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–4611 Filed 3–13–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–55–89]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–55–89 (TD 8566), General Asset Accounts under the Accelerated Cost Recovery System (§ 1.168(i)–1).

DATES: Written comments should be received on or before May 14, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Carolyn N. Brown at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–6688, or through the Internet at (*Carolyn.N.Brown@irs.gov*).

SUPPLEMENTARY INFORMATION:

Title: General Asset Accounts under the Accelerated Cost Recovery System.

OMB Number: 1545–1331.

Regulation Project Number: PS–55–89.

Abstract: Section 168(i)(4) of the Internal Revenue Code authorizes the Secretary of the Treasury to provide rules under which a taxpayer may elect to account for property in one or more general asset accounts for depreciation purposes. The regulations describe the time and manner of making the election described in Code section 168(i)(4). Basic information regarding this election is necessary to monitor compliance with the rules of Code section 168.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and Farms.

Estimated Number of Respondents: 1,000.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 250.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 6, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–4612 Filed 3–13–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[INTL–952–86]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking

and temporary regulation, INTL–952–86 (TD 8228), Allocation and Apportionment of Interest Expense and Certain Other Expenses (§§ 1.861–9T, and 1.861–12T).

DATES: Written comments should be received on or before May 14, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Carolyn N. Brown at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–6688, or through the Internet at (*Carolyn.N.Brown@irs.gov*).

SUPPLEMENTARY INFORMATION:

Title: Allocation and Apportionment of Interest Expense and Certain Other Expenses.

OMB Number: 1545–1072.

Regulation Project Number: INTL–952–86.

Abstract: Section 864(e) of the Internal Revenue Code provides rules concerning the allocation and apportionment of interest and certain other expenses to foreign source income for purposes of computing the foreign tax credit limitation. These regulations provide for the affirmative election of either the gross income method or the asset method of apportionment in the case of a controlled foreign corporation.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and Business or other for-profit organizations.

Estimated Number of Respondents/Recordkeepers: 15,000.

Estimated Time per Respondent/Recordkeeper: 15 minutes.

Estimated Total Annual Reporting/Recordkeeping Hours: 3,750.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 6, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–4613 Filed 3–13–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Regulation Section 1.6001–1]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, regulation section 1.6001–1, Records.

DATES: Written comments should be received on or before May 14, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation section should be directed to Carolyn N. Brown at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–6688, or through the Internet at *Carolyn.N.Brown@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Records (26 CFR 1.6001–1).

OMB Number: 1545–1156.

Regulation Project Number: Regulation section 1.6001–1.

Abstract: Internal Revenue Code section 6001 requires, in part, that every person liable for tax, or for the collection of that tax, keep such records and comply with such rules and regulations as the Secretary (of the Treasury) may from time to time prescribe. It also allows the Secretary, in his or her judgment, to require any person to keep such records that are sufficient to show whether or not that person is liable for tax. Under regulation section 1.6001–1, in general, any person subject to tax, or any person required to file an information return, must keep permanent books of account or records, including inventories, that are sufficient to establish the amount of gross income, deductions, credits or other matters required to be shown by such person in any tax return or information return. Books and records are to be kept available for inspection by authorized internal revenue officers or employees and are to be retained so long as their contents any became material in the administration of any internal revenue law.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and Business or other for-profit organizations, Not-for-profit institutions, Farms, and Federal, State, Local or Tribal Governments.

The recordkeeping burden in this regulation is already reflected in the burden of all tax forms.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the

request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 6, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–4614 Filed 3–13–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 13614–T

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 13614–T, Telephone Excise Tax Refund—1040EZ–T Intake Sheet.

DATES: Written comments should be received on or before May 14, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carolyn N. Brown, at (202) 622–6688, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Carolyn.N.Brown@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Telephone Excise Tax Refund—1040EZ–T Intake Sheet.

OMB Number: 1545–2057.

Form Number: Form 13614–T.

Abstract: Form 13614–T is part of a series of forms related to the Form 13614. The Form 13614–T will be used as the Intake Sheet for individuals who potentially qualify to file a Form 1040EZ–T, Request for Refund of Federal Telephone Excise Tax, to receive their refund.

Current Actions: There are no changes being made to Form 13614–T at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, Business or other for-profit organizations, Not-for-profit institutions and Federal Government.

Estimated Number of Respondents: 491,500.

Estimated Time per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 81,917.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 7, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–4615 Filed 3–13–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Announcement 2004–38

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Announcement 2004–38, Election of Alternative Deficit Reduction Contribution.

DATES: Written comments should be received on or before May 14, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the announcement should be directed to Carolyn N. Brown at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–6688, or through the Internet at *Carolyn.N.Brown@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Election of Alternative Deficit Reduction Contribution.

OMB Number: 1545–1883.

Announcement Number: Announcement 2004–38.

Abstract: Announcement 2004–38 describes the election that must be made in order for certain employers to take advantage of the alternative deficit reduction contribution described in section 102 of H.R. 3108.

Current Actions: There are no changes being made to the announcement at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and Not-for-profit institutions.

Estimated Number of Respondents: 200.

Estimated Time per Respondent: 4 hours.

Estimated Total Annual Burden Hours: 800.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 6, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–4616 Filed 3–13–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 926

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 926, Return by a U.S. Transferor of Property to a Foreign Corporation, Foreign Estate or Trust, or Foreign Partnership.

DATES: Written comments should be received on or before May 14, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carolyn N. Brown, at (202) 622–6688, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Carolyn.N.Brown@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Return by a U.S. Transferor of Property to a Foreign Corporation.

OMB Number: 1545–0026.

Form Number: Form 926.

Abstract: Form 926 is filed by any U.S. person who transfers certain tangible or intangible property to a foreign corporation to report information required by section 6038B.

Current Actions: There are no changes being made to Form 926 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and Individuals or households.

Estimated Number of Respondents: 667.

Estimated Time per Respondent: 14 hours, 7 minutes.

Estimated Total Annual Burden Hours: 9,419.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 28, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–4617 Filed 3–13–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Volunteer Income Tax Assistance (VITA) Issue Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel VITA Issue Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, April 3, 2007, at noon Eastern Time.

FOR FURTHER INFORMATION CONTACT: Barbara Toy at 1–888–912–1227, or (414) 231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel VITA Issue Committee will be held Tuesday, April 3, 2007, at noon, Eastern Time via a telephone

conference call. You can submit written comments to the Panel by faxing to (414) 231–2363, or by mail to Taxpayer Advocacy Panel, Stop 1006MIL, P.O. Box 3205, Milwaukee, WI 53201–3205, or you can contact us at *http://www.improveirs.org*. Public comments will also be welcome during the meeting. Please contact Barbara Toy at 1–888–912–1227 or (414) 231–2360 for additional information.

The agenda will include the following: Various VITA Issues.

Dated: March 7, 2007.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E7–4598 Filed 3–13–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Joint Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Joint Committee of the Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, April 4, 2007, at 1 p.m., Eastern Time.

FOR FURTHER INFORMATION CONTACT: Barbara Toy at 1–888–912–1227, or (414) 231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Joint Committee of the Taxpayer Advocacy Panel (TAP) will be held Wednesday, April 4, 2007, at 1 p.m. Eastern Time via a telephone conference call. You can submit written comments to the panel by faxing to (414) 231–2363, or by mail to Taxpayer Advocacy Panel, Stop 1006MIL, P.O. Box 3205, Milwaukee, WI, 53201–3205, or you can contact us at *http://www.improveirs.org*. Please contact Barbara Toy at 1–888–912–1227 or (414) 231–2360 for additional information.

The agenda will include the following: discussion of issues and responses brought to the Joint Committee; office report; and discussion of next meeting.

Dated: March 7, 2007.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E7–4600 Filed 3–13–07; 8:45 am]

BILLING CODE 4830–01–P

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Hearing

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open public hearing—March 29–30, 2007, Washington, DC.

SUMMARY: Notice is hereby given of the following hearing of the U.S.-China Economic and Security Review Commission.

Name: Carolyn Bartholomew, Chairman of the U.S.-China Economic and Security Review Commission.

The Commission's statutory mandate from Congress, contained in Pub. L. 109–108, directs it to assess, among other key dynamics of the U.S.-China relationship, "the state of the security challenges presented by the People's Republic of China to the United States and whether the security challenges are increasing or decreasing from previous years." This hearing is part of the Commission's efforts to obtain the information it needs to fulfill this portion of its congressional mandate.

Pursuant to this mandate, the Commission will hold a public hearing in Washington, DC on March 29–30, 2007 to address "China's Military Modernization and its Impact on the United States and the Asia-Pacific."

Background

This event is the second in a series of public hearings the Commission will hold during its 2007 report cycle to collect input from leading experts in government, the academe and industry, to examine China's capacity to wage war in the irregular, traditional, and disruptive domains as set fourth in the threat framework described in the 2006 Quadrennial Defense Review. Subtopics to be explored include: Chinese perception management campaigns directed at the populations of other countries, doctrines and tactics of the People's Liberation Army (PLA) aimed at undermining the technological edge of U.S. forces (including newly-demonstrated anti-satellite capabilities), and the ways in which PLA modernization has affected the military balance across the Taiwan Strait.

On March 29, the hearing will be divided into four sessions. In each session, commissioners will hear testimony from witnesses followed by a question and answer period between the Commissioners and the witnesses. Members of Congress will comprise the first panel and share their perspectives on the general issue of Chinese military modernization. The second panel will examine Beijing's doctrine on the conduct of irregular forms of warfare, including such acts as interrupting supply chains or manufacturing processes through economic means, managing perceptions about China in potentially hostile nations, and the use of cyber terrorism. The third session will explore topics related to PLA modernization in the domain of traditional warfare, especially as it relates to force integration and force projection. The fourth session will survey the military balance across the Taiwan Strait, including the implications of the significant intertwining of economic activity between actors in the PRC and Taiwan.

On March 30, there will be two hearing sessions that examine China's disruptive warfare capabilities. The first session will focus on the tactics and doctrines aimed at undermining the current qualitative advantage of U.S. forces through asymmetric means, such as cruise missiles and submarine forces, in order to deter U.S. intervention in Pacific theater conflicts. The second session that morning (and the final session of the hearing) will examine the role that space and counter-space technology will play in disrupting U.S. operability in the region. Specifically, panelists will analyze what the January 2007 anti-satellite test means for the security of U.S. forces, the implications for free access and transit of outer space, and the effects of the resulting space debris.

The hearing will be cochaired by Commissioners William Reinsch and Larry Wortzel.

Information on this hearing, including a detailed hearing agenda and information about panelists, will be made available on the Commission's Web site closer to the hearing date. Detailed information about the Commission, the texts of its annual reports and hearing records, and the products of research it has commissioned can be found on the Commission's Web site at *www.uscc.gov*.

Any interested party may file a written statement by March 29, 2007, by mailing to the contact below.

Dates And Times: Thursday, March 29, 2007, 9 a.m. to 4 p.m. Eastern Standard Time and Friday, March 30, 2007, 8:30 a.m. to 11:30 a.m.

ADDRESSES: The hearing will be held on Capitol Hill in Room 562 of the Dirksen Senate Office Building located at First Street and Constitution Avenue, NE., Washington, DC 20510. Public seating is limited to approximately 50 people on a first come, first served basis. Advance reservations are not required.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning the hearing should contact Kathy Michels, Associate Director of the U.S.-China Economic and Security Review Commission, 444 North Capitol Street, NW., Suite 602, Washington, DC 20001; phone: 202–624–1409, or via e-mail at *kmichels@uscc.gov*.

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Pub. L. 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108–7), as amended by Pub. L. 109–108 (November 22, 2005) for the purpose of monitoring, investigating, and reporting to the Congress on the national security implications of the bilateral economic relationship between the United States and the People's Republic of China. It is charged with providing an annual report of its findings and recommendations to the Congress. The Commission is composed of twelve Commissioners appointed by the leaders of both parties in the U.S. House and U.S. Senate.

Dated: March 8, 2007.

Kathleen J. Michels,

Associate Director, U.S.-China Economic and Security Review Commission.

[FR Doc. E7–4604 Filed 3–13–07; 8:45 am]

BILLING CODE 1137–00–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0458]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATE: Comments must be submitted on or before April 13, 2007.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov*; or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0458" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005G2), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–8374, fax (202) 565–7870 or e-mail *denise.mclamb@mail.va.gov*. Please refer to "OMB Control No. 2900–0458."

SUPPLEMENTARY INFORMATION:

Title: Certification of School Attendance or Termination, VA Forms 21–8960 and 21–8960–1.

OMB Control Number: 2900–0458.

Type of Review: Extension of a currently approved collection.

Abstract: Claimants complete VA Form 21–8960 and VA Form 21–8960–1 to certify that a child between the ages of 18 and 23 years old is attending school. VA uses the information collected to determine the child's continued entitlement to benefits. Benefits are discontinued if the child marries, or no longer attending school.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on November 28, 2006 at page 68911.

Affected Public: Individuals or households.

Estimated Annual Burden: 11,667 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 70,000.

Dated: March 1, 2007.

By Direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–4632 Filed 3–13–07; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register
Vol. 72, No. 49
Wednesday, March 14, 2007

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 12

[CBP Dec. 07–05 and USCBP–2006–0020]

RIN 1505–AB68

Entry of Certain Cement Products From Mexico Requiring a Commerce Department Import License

Correction

In rule document 07–997 beginning on page 10004 in the issue of Tuesday, March 6, 2007, make the following correction:

§ 12.155 [Corrected]

On page 10005, in the third column, in § 12.155(b), in the seventh line, "361.205" should read "361.105".

[FR Doc. C7–997 Filed 3–13–07; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Wednesday,
March 14, 2007

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Acanthomintha ilicifolia (San Diego thornmint); Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AU86

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for *Acanthomintha ilicifolia* (San Diego thornmint)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to designate critical habitat for *Acanthomintha ilicifolia* (San Diego thornmint) under the Endangered Species Act of 1973, as amended (Act). We have determined that a total of approximately 1,936 acres (ac) (783 hectares (ha)) in San Diego County, California, meets the definition of critical habitat. We are proposing to exclude 1,302 ac (527 ha) from the critical habitat designation. If these proposed exclusions are adopted, this would result in a designation of critical habitat of approximately 634 ac (257 ha) of land under Federal (553 ac (224 ha)), and State and local (81 ac (33 ha)), ownership in San Diego County, California.

DATES: We will accept comments from all interested parties until May 14, 2007. We must receive requests for public hearings, in writing, at the address shown in the **ADDRESSES** section by April 30, 2007.

ADDRESSES: If you wish to comment on the proposed rule, you may submit your comments and materials identified by RIN 1018–AU86, by any of the following methods:

(1) You may send comments by electronic mail (e-mail) to *fw8cfwocomments@fws.gov*. Include "RIN 1018–AU86" in the subject line.

(2) You may fax your comments to Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office at 760–431–5901.

(3) You may mail or hand-deliver your written comments and information to Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, CA 92011.

(4) You may submit your comments at the Federal eRulemaking Portal, *http://www.regulations.gov*. Follow the instructions for submitting comments.

Comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the Carlsbad Fish and Wildlife Office at the above address (telephone 760–431–9440).

FOR FURTHER INFORMATION CONTACT: Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office at the address or telephone number listed under **ADDRESSES.** Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) The reasons any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act, including whether the benefit of designation will outweigh any threats to the species due to designation;

(2) Specific information on the amount and distribution of *Acanthomintha ilicifolia* habitat and what areas should be included in the designation that were occupied at the time of listing that contain the features essential for the conservation of the species, and why and what areas that were not occupied at the time of listing are essential to the conservation of the species;

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(4) Our proposed exclusion of 1,302 acres (ac) (527 hectares (ha)) of non-Federal lands already conserved or targeted for conservation within subarea plans under the San Diego Multiple Species Conservation Program (MSCP) and the San Diego Multiple Habitat Conservation Program (MHCP) from the final designation of critical habitat for *Acanthomintha ilicifolia* under section 4(b)(2) of the Act. We are specifically seeking public comment on our proposed exclusion of lands covered under the City of Encinitas subarea plan of the MHCP (see Exclusions Under Section 4(b)(2) of the Act for details of these HCPs). It is our understanding that little progress has been made by the City of Encinitas to finalize their subarea plan since the 2001 release of the draft plan. Based on information received during the public comment period, the Secretary may determine that sufficient progress has not been made and that lands within the City of Encinitas' subarea plan should not be excluded from the final designation. Specifically, useful information would include: Whether essential lands within Encinitas are being managed, or are proposed to be managed, to conserve *A. ilicifolia*, and; the outlook for completion of the draft subarea plan. Please provide information concerning whether the benefits of exclusion of any of these specific areas outweigh the benefits of their inclusion in designated critical habitat. If the Secretary determines the benefits of including these lands outweigh the benefits of excluding them, they will not be excluded from final critical habitat;

(5) Any foreseeable economic, national security, or other potential impacts resulting from the proposed designation and, in particular, any impacts on small entities; and

(6) Whether our approach to designating critical habitat could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concerns and comments.

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods (see **ADDRESSES**). Please submit e-mail comments to *fw8cfwocomments@fws.gov*. Please also include "Attn: RIN 1018–AU86" in your e-mail subject line and your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your message, contact us directly by calling our Carlsbad Fish and Wildlife Office at phone number 760–431–9440. Please note that comments must be received by the date specified in **DATES** in order to be considered.

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 names and home addresses, etc., but if you wish us to consider withholding this information, you must state this prominently at the beginning of your comments. In addition, you must present rationale for withholding this information. This rationale must demonstrate that disclosure would constitute a clearly unwarranted invasion of privacy. Unsupported assertions will not meet this burden. In the absence of exceptional, documentable circumstances, this information will be

released. We will always make submissions from organizations or businesses, and from individuals identifying themselves as representatives of or officials of organizations or businesses, available for public inspection in their entirety.

Role of Critical Habitat in Actual Practice of Administering and Implementing the Act

Attention to and protection of habitat is paramount to successful conservation actions. The role that designation of critical habitat plays in protecting habitat of listed species, however, is often misunderstood. As discussed in more detail below in the discussion of exclusions under section 4(b)(2) of the Act, there are significant limitations on the regulatory effect of designation under section 7(a)(2) of the Act. In brief, (1) designation provides additional protection to habitat only where there is a Federal nexus; (2) the protection is relevant only when, in the absence of designation, destruction or adverse modification of the critical habitat would in fact take place (in other words, other statutory or regulatory protections, policies, or other factors relevant to agency decision-making would not prevent the destruction or adverse modification); and (3) designation of critical habitat triggers the prohibition of destruction or adverse modification of that habitat, but it does not require specific actions to restore or improve habitat.

Currently, only 483 species, or 37 percent of the 1,311 listed species in the United States under the jurisdiction of the Service have designated critical habitat. We address the habitat needs of listed species through conservation mechanisms such as listing, section 7 consultations, the section 4 recovery planning process, the section 9 protective prohibitions of unauthorized take, section 6 funding to the States, the section 10 incidental take permit process and cooperative, nonregulatory efforts with private landowners. The Service believes that it is these measures that may make the difference between extinction and survival for many species.

In considering exclusions of areas proposed for designation, we evaluate the benefits of designation in light of *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service*, 378 F.3d 1059 (9th Cir. 2004) (hereinafter *Gifford Pinchot*). In that case, the Ninth Circuit invalidated the Service's regulation defining "destruction or adverse modification of critical habitat." In response, on December 9, 2004, the Director issued guidance to be considered in making section 7 adverse modification determinations. This proposed critical habitat designation does not use the invalidated regulation in our consideration of the benefits of including areas in the proposed designation. The Service will carefully manage future consultations that analyze impacts to designated critical habitat, particularly those that appear to be resulting in an adverse modification determination. Such consultations will be reviewed by the Regional Office prior to finalizing to ensure that an adequate analysis has been conducted that is informed by the Director's guidance.

On the other hand, to the extent that designation of critical habitat provides protection, that protection can come at significant social and economic cost. In addition, the mere administrative process of designation of critical habitat is expensive, time-consuming, and controversial. The current statutory framework of critical habitat, combined with past judicial interpretations of the statute, make critical habitat the subject of excessive litigation. As a result, critical habitat designations are driven by litigation and courts rather than biology, and made at a time and under a timeframe that limits our ability to obtain and evaluate the scientific and other information required to make the designation most meaningful.

In light of these circumstances, the Service believes that additional agency discretion would allow our focus to return to those actions that provide the greatest benefit to the species most in need of protection.

Procedural and Resource Difficulties in Designating Critical Habitat

We have been inundated with lawsuits for our failure to designate critical habitat, and we face a growing number of lawsuits challenging critical habitat determinations once they are made. These lawsuits have subjected the Service to an ever-increasing series of court orders and court-approved settlement agreements, compliance with which now consumes nearly the entire listing program budget. This leaves the Service with little ability to prioritize its activities to direct scarce listing resources to the listing program actions with the most biologically urgent species conservation needs.

The consequence of the critical habitat litigation activity is that limited listing funds are used to defend active lawsuits, to respond to Notices of Intent to sue relative to critical habitat, and to comply with the growing number of adverse court orders. As a result, listing petition responses, the Service's own proposals to list critically imperiled species, and final listing determinations on existing proposals are all significantly delayed.

The accelerated schedules of court-ordered designations have left the Service with limited ability to provide for public participation or to ensure a defect-free rulemaking process before making decisions on listing and critical habitat proposals, due to the risks associated with noncompliance with judicially imposed deadlines. This in turn fosters a second round of litigation in which those who fear adverse impacts from critical habitat designations challenge those designations. The cycle of litigation appears endless, and is very expensive, thus diverting resources from conservation actions that may provide relatively more benefit to imperiled species.

The costs resulting from the designation include legal costs, the cost of preparation and publication of the designation, the analysis of the economic effects and the cost of requesting and responding to public comment, and in some cases the costs of compliance with the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*). These costs, which are not required for many other conservation actions, directly reduce the funds available for direct and tangible conservation actions.

Background

It is our intent to discuss only those topics directly relevant to the designation of critical habitat in this proposed rule. For more information on the biology and ecology of *Acanthomintha ilicifolia*, please refer to the final rule listing the species as threatened published in the **Federal Register** on October 13, 1998 (63 FR 54938). This species has been listed by the State of California as endangered since 1982.

Species Description and Life History

Acanthomintha ilicifolia (San Diego thornmint) is an annual member of the mint family in the genus *Acanthomintha*. This plant ranges in height from 2 to 6 inches (in) (5 to 15 centimeters (cm)) and has white, two-lipped, tubular flowers with rose-colored markings on the lower lip (Jokerst 1993, p. 713). Members of this genus have paired leaves and several sharp spiny bracts (modified leaves) below whorled flowers. *Acanthomintha ilicifolia* can be distinguished from other members of the genus by its flower, which has hairless anthers and style.

Distribution, Ecology, and Habitat

Acanthomintha ilicifolia usually occurs on heavy clay soils in open areas surrounded by shrubby vegetation. These openings are generally found within coastal sage scrub, chaparral and native grassland of coastal San Diego County and south to San Telmo in northern Baja California, Mexico (Beauchamp 1986, p. 175; Reiser 2001, pp. 3–5). *Acanthomintha ilicifolia* is frequently associated with gabbro soils, which are derived from igneous rock, and gray calcareous clays derived from soft calcareous sandstone (Oberbauer and Vanderwier 1991, pp. 208–209). This species is endemic to San Diego County, California, and northwestern Baja California, Mexico, and grows on open clay lenses described as friable, meaning that these soils have a loose, crumbly texture.

In the final listing rule for *Acanthomintha ilicifolia* (63 FR 54938, October 13, 1998), 32 of 52 historic populations were presumed to be extant (still in existence). In the listing rule we estimated that the total number of individual plants in all remaining populations was approximately 150,000 to 170,000 (63 FR 54938). Throughout this proposed rule, occurrences of *A. ilicifolia* are referred to by their element occurrence (EO) number. This is a code that is assigned to each specific location of rare species that is cataloged in the California Natural Diversity Database (CNDDB). Element occurrences do not necessarily represent populations, but are used to represent areas where a species is found. Element occurrences that are close together may be part of the same population. Therefore, the number of element occurrences does not represent the number of populations that exist for this species. For the purpose of this proposed critical habitat designation, we are assuming that element occurrences within one mile (1.6 kilometers (km)) of each other and on habitat that is not fragmented by roads or structures are part of the same population.

Through surveys associated with the development of Habitat Conservation Plans (HCPs) and additional surveys on public and private lands since the time of listing, additional populations of *A. ilicifolia* have been discovered. We currently have data for a total of 88 element occurrences (or 64 populations) of which 54 element occurrences (or 34 populations) are extant or presumed extant and 34 element occurrences (or 30 populations) are considered to be extirpated (no longer in existence) or possibly extirpated. Specifically, we consider 68 element occurrences to have been known at the time of listing in 1998 (52 historic populations) and an additional 20 element occurrences to have been discovered since the time of listing (12 new populations). Detailed information about the new element occurrences is available upon request from the Carlsbad Fish and Wildlife Office (see **ADDRESSES**).

Previous Federal Actions

Acanthomintha ilicifolia was federally listed as threatened on October 13, 1998 (63 FR 54938), and has been listed as endangered by the State of California since 1982 (CDFG 2006, p.1). This species currently does not have a recovery plan.

At the time this plant was federally listed, the Service compared the benefits of designating critical habitat to the detrimental effects (threats) of increased collection and vandalism and the potential for private landowner misunderstandings about the effects of critical habitat designation on private lands (63 FR 54938, pp. 54951–54953). Additionally, we conflated the jeopardy standard with the standard for destruction or adverse modification of critical habitat, stating that a jeopardy finding would be equivalent to a finding of adverse modification of critical habitat thereby resulting in identical section 7 findings. Based on these factors, the Service found that designation of critical habitat for *A. ilicifolia* was not prudent.

On August 10, 2004, the Center for Biological Diversity and California Native Plant Society challenged our failure to designate critical habitat for this species as well as four other plant species (*Center for Biological Diversity* v. *Norton*, C–04–3240 JL (N. D. Cal.)). In settlement of the lawsuit, the Service agreed to withdraw our previous not prudent finding and deliver a proposed determination of critical habitat, if prudent, to the **Federal Register** on or before February 28, 2007 and a final designation by February 28, 2008.

We have re-evaluated the prudency of designating critical habitat for this species. Despite the potential threats to this species from collection and vandalism and the continuing potential for private landowner misunderstandings about the effects of critical habitat designation on private land, we believe that designation of critical habitat will benefit *A. ilicifolia*. As a result of the *Gifford Pinchot* court ruling in 2004, we now recognize the jeopardy standard and the standard for destruction or adverse modification of critical habitat are separate and distinct. Additionally, we recognize critical habitat designations may provide benefits to the recovery of a species. Therefore, we now find designation of critical habitat for *A. ilicifolia* to be prudent because designation of critical habitat has the potential to provide greater protections to the species and its habitat than the jeopardy standard under section 7(a)(2) of the Act.

Critical Habitat

Critical habitat is defined in section 3 of the Act as—(i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 of the Act requires consultation on Federal actions that are likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow government or public access to private lands. Section 7 of the Act is a purely protective measure and does not require implementation of restoration, recovery, or enhancement measures.

To be included in a critical habitat designation, the habitat within the area occupied by the species must first have features that are essential to the conservation of the species. Critical habitat designations identify, to the

extent known using the best scientific data available, habitat areas that provide essential life cycle needs of the species (i.e., areas on which are found the primary constituent elements, as defined at 50 CFR 424.12(b)). Habitat within the geographic area occupied by the species at the time of listing may be included in critical habitat only if the essential features thereon may require special management considerations or protection. Areas outside of the geographic area occupied by the species at the time of listing may only be included in critical habitat if they are essential for the conservation of the species. Accordingly, when the best available scientific data do not demonstrate that the conservation needs of the species require additional areas, we will not designate critical habitat in areas outside the geographical area occupied by the species at the time of listing. An area currently occupied by the species but not known to be occupied at the time of listing will likely, but not always, be essential to the conservation of the species and, therefore, typically included in the critical habitat designation.

The Service's Policy on Information Standards Under the Endangered Species Act, published in the **Federal Register** on July 1, 1994 (59 FR 34271), and Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658) and the associated Information Quality Guidelines issued by the Service, provide criteria, establish procedures, and provide guidance to ensure that decisions made by the Service represent the best scientific data available. They require Service biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitat, a primary source of information is generally the listing package for the species. Additional information sources include the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, or other unpublished materials and expert opinion or personal knowledge. All information is used in accordance with the provisions of Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658) and the associated Information Quality Guidelines issued by the Service.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Habitat is often dynamic, and species may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery.

Areas that support populations but are outside the critical habitat designation will continue to be subject to conservation actions implemented under section 7(a)(1) of the Act and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard, as determined on the basis of the best available information at the time of the action. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

Methods

As required by section 4(b)(2) of the Act, we used the best scientific data available in determining areas that contain the features that are essential to the conservation of *Acanthomintha ilicifolia*. This includes information from the proposed listing rule (60 FR 40549, August 9, 1995); final listing rule (63 FR 54938, October 13, 1998); data from research and survey observations published in peer-reviewed articles; site visits and unpublished survey data; regional Geographic Information System (GIS) layers including soil, vegetation and species coverages from San Diego County and data compiled in the California Natural Diversity Database (CNDDB). More specifically, the information sources used for this proposal include: (1) CNDDB element occurrence data (2005 and 2006); (2) Bauder and McMillan (1994, pp. 1–87); (3) McMillan (2001, pp. 1–91); (4) herbarium records from San Diego Natural History Museum, University of California at Berkeley and Rancho Santa Ana Botanical Garden; (5) personal communications with *A. ilicifolia* experts (Bauder 2006; Hanson 2006; Kelly 2005; McMillan 2006; Sproul 2006; and Vinje 2006); (6) site visits by Service biologists to several known element occurrences of *A. ilicifolia* in 2005 and 2006; and (7) information provided by the Cleveland National Forest of the U.S. Forest Service (Winter and Young 2005).

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat, we consider those areas occupied by the species at the time of listing that contain physical or biological features (primary constituent elements (PCEs)) that are essential to the conservation of the species, and that may require special management considerations or protection. These include, but are not limited to, space for individual and population growth and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, and rearing of offspring, germination, and seed dispersal; and habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

The specific primary constituent element required for *Acanthomintha ilicifolia* is derived from the biological needs of *A. ilicifolia* as described in the proposed and final listing rules (60 FR 40549; 63 FR 54938).

Space for Individual and Population Growth and Normal Behavior

Acanthomintha ilicifolia occurs on isolated patches of clay soils derived from gabbro and soft calcareous sandstone substrates (Oberbauer and Vanderwier 1991, pp. 208–209) (PCE). The soils derived from gabbro substrates are red to dark brown clay soils, and those derived from soft calcareous sandstone are gray, sometimes loamy, clay soils. These patches of clay soils are called "clay lenses," and in San Diego County and northern Baja California, Mexico, clay lenses are known to support a variety of narrow endemic (restricted to a specific geographic area) plants. Clay lenses tend to have an open or unpopulated look because many common species cannot tolerate living on these clay soils. Clay lenses are typically devoid of woody, perennial shrubs (PCE). It is believed shrubs have difficulty surviving on these soils because in the rainy winter months these soils become saturated

with water and the large root systems of shrubs are not able to get oxygen (Oberbauer and Vanderwier 1991, pp. 208–209). Also, as the soils become saturated they expand and move, and when the soils dry they contract and crack, making it difficult for shrubs to become established. Likewise, relatively few common annual plant species inhabit clay lenses due to the harsh conditions, and those plants that are adapted to these conditions, in some cases, have become differentiated from their common relatives. Due to the absence of most common native vegetation from these clay lenses, the areas where *A. ilicifolia* occurs appear as open areas in a matrix of coastal sage scrub or chaparral (PCE).

Clay lenses are generally inhabited by a specific flora that consist of forbs, native grasses, and geophytes (perennial plants propagated by buds on underground bulbs, tubers, or corms such as lilies, iris, and onions). Native plant species that characterize the vegetation found with *Acanthomintha ilicifolia* on clay lenses include *Hesperevax sparsiflora* var. *sparsiflora* (erect evax), *Harpagonella palmeri* (Palmer's grappling-hook), *Convolvulus simulans* (bindweed), *Apiastrum angustifolium* (mock parsley), and *Microseris douglasii* ssp. *platycarpha* (small flowered microseris) (Bauder et al. 1994, pp. 9–10; McMillan 2006, p. 1; Vinje 2006b, pp. 1–2).

In addition to the characteristics discussed above, the texture and structure of the clay lenses are essential for supporting the seedling establishment and growth of *Acanthomintha ilicifolia*. This soil provides many small pockets where seeds from *A. ilicifolia* become lodged as they fall from decomposing plants (Bauder and Sakrison 1999, p. 28). The seeds then stay in the soils until the temperatures become cooler in the winter months and the soil becomes saturated with the winter rains (Bauder and Sakrison 1997, p. 28). The seedlings then germinate and grow to mature plants. These plants do best when they are not crowded or shaded by other plants (Bauder and Sakrison 1999, p. 12). The loose, crumbly texture of the soil provides the proper substrate to hold the seed bank and allow for root growth (PCE).

Clay lenses generally form on gentle slopes. An analysis of 20 sites where *Acanthomintha ilicifolia* was observed found that the slopes range from 0 to 25 degrees, with the majority of the sites having slopes below 20 degrees (Bauder et al. 1994, pp. 10–11) (PCE). This study also found that many thriving, natural populations were on slopes that faced southeast, south, southwest, and west, although not all sites fit this pattern (Bauder et al. 1994, pp. 10–11). Using GIS, we found that the known populations of *Acanthomintha ilicifolia* range in elevation from sea level to 3,000 ft (914 m). *Acanthomintha ilicifolia* occurs on several soil types. These soils are mapped as Las Posas, Olivenhain, Redding, Huerhuero, Altamont, Cieneba, and Linne (Bowman 1973, pp. 22–24, 38–40, 54–55, 61–64, 67–68, and 71–72) and are derived from gabbro and soft calcareous sandstone substrates with a loose, crumbly structure and deep fissures that provide space for population and individual growth and substrate for seedling establishment.

Water and Hydrology

The loose, crumbly clay soils that support *Acanthomintha ilicifolia* act like a sponge and are saturated by winter rains. The saturation of these soils allows for seeds of *A. ilicifolia* to imbibe with water and germinate in the cool winter months (Bauder and Sakrison 1997, p. 32). As such, the species requires a natural hydrological regime to reproduce. Since we do not have specific information on the hydrological regime that this species requires, we did not include hydrological regime as a primary constituent element.

Reproduction and Pollination

The breeding system of *Acanthomintha ilicifolia* has not been studied, but it has been determined that other members of the genus *Acanthomintha* are self-compatible (Steeck 1995, pp. 27–33). A 1996 study (Bauder and Sakrison 1997, p. 38) found that several insect species visited the flowers and moved from plant to plant. These insects represented possible pollinators of *A. ilicifolia;* however, none were thought to represent species-specific pollinators (Bauder and Sakrison 1997, p. 39). Since we do not have information on any species-specific pollinators that visit *A. ilicifolia*, we did not include pollinators as a primary constituent element.

Primary Constituent Elements for Acanthomintha ilicifolia

Pursuant to our regulations, we are required to identify the known physical and biological features (PCEs) essential to the conservation of *Acanthomintha ilicifolia*.

Based on our current knowledge of the life history, biology, and ecology of the species and the requirements of the habitat to sustain the essential life history functions of the species, we have determined that the PCE for *Acanthomintha ilicifolia is*:

Clay lenses that provide substrate for seedling establishment and space for growth and development of *Acanthomintha ilicifolia, that are*:

(a) Within chaparral and coastal sage scrub;

(b) On gentle slopes ranging from 0 to 25 degrees;

(c) Derived from gabbro and soft calcareous sandstone substrates with a loose, crumbly structure and deep (approximately 2 feet (60 cm)) fissures; and

(d) Characterized by a low density of forbs and geophytes, and a low density or absence of shrubs.

This proposed designation is designed for the conservation of those areas containing the PCE necessary to support one or more of the species' life history functions. All units and subunits in this proposed designation contain the PCE and support multiple life processes. This proposed rule would protect the PCE and thus the conservation function of the habitat.

Criteria Used To Identify Critical Habitat

As required by section 4(b)(1)(A) of the Act, we use the best scientific and commercial data available in determining areas that contain the features that are essential to the conservation of *Acanthomintha ilicifolia*. All of the areas proposed for designation are currently occupied by the species. Occupied areas were determined from survey data and element occurrence data in the CNDDB (CNDDB 2006). For the purpose of this proposal, we assumed that each element occurrence represents a population of *A. ilicifolia*, except in cases where there are several element occurrences located within 1 mile (1.6 km) of each other and the habitat is not fragmented by manmade features. In these cases, we considered the group of element occurrences as a single population. Examples of this include the Manchester Preserve in Encinitas (element occurrence (EO) 28, EO 42, and EO 54), McGinty Mountain near Jamul (EO 21, EO 22, and EO 30), and Viejas and Poser Mountains near Alpine (EO 12, EO 50, EO 51, EO 62, EO 73, EO 74, and EO 75).

We then identified the areas that contain the features that are essential to the conservation of *A. ilicifolia* by identifying areas that: (1) Support populations that occur on rare or unique habitat within the species' range; (2) support the largest known populations of *A. ilicifolia*; or (3) support stable populations of *A. ilicifolia*. These

criteria are explained in greater detail below. Areas containing the primary constituent elements and that meet at least one of the above criteria were considered for critical habitat designation. To evaluate locations occupied by this species we used: the California Natural Diversity Database (CNDDB 2006); a study by Bauder et al. (1994); biological surveys (City of San Diego 2000; City of San Diego 2001; City of San Diego 2003; City of San Diego 2004; City of San Diego 2005; Conservation Biology Institute 2002, p. A3–1; County of San Diego 2002, p. 17; Dudek and Associates, Inc. 2006, Appendix A pp. 3–4; Helix Environmental Planning, Inc. 2002, p. 6; and REC Consultants, Inc. 2004, p. figure 5); and interviews with botanists working on this species (Kelley 2005; McMillan 2006).

The first criterion we used to identify proposed critical habitat was areas that support populations that occur on rare or unique habitat within the species' range. The majority of areas that currently support *Acanthomintha ilicifolia* are on dark brown to reddish brown clay soils that are derived from gabbro substrates. Historically, *A. ilicifolia* also occurred on gray clay soils that are derived from soft calcareous sandstone substrates. The only remaining population on this soil type is northeast of the intersection of Palomar Airport Road and El Camino Real, in the City of Carlsbad. Conserving unique soil types that this species occurs on will help to reduce the risk of extinction for this species because it may allow for the preservation of a greater amount of genetic diversity within the species' gene pool. Therefore, this area containing population (EO 70) is proposed for critical habitat designation under criterion one.

The second criterion we used to identify proposed critical habitat was areas that support the largest known populations of *Acanthomintha ilicifolia*. The CNDDB includes data for this species that date back to 1978. Populations of this species range from just a few individual plants to several thousand. The majority of the known populations range from 50 to 2,000 plants. Yet, there are four populations that stand out as the largest, each having greater than 25,000 plants. The four largest populations and the estimated population at each location are: Sycamore Canyon (EO 32), 31,000 plants; Slaughterhouse Canyon (EO 64), 60,000 plants; Viejas and Poser Mountains (EO 12, EO 50, EO 51, EO 62, EO 73, and EO 74), 29,650 plants; and Hollenbeck Canyon (EO L), 100,000 plants. These large populations are vital for the conservation of this species because they occur within large blocks of open space and are less likely to be impacted by edge effects associated with smaller populations in highly urbanized areas. Additionally, the conservation of these large populations will increase the persistence of the species across its range. Therefore, the area containing these populations is proposed for critical habitat designation under criterion two. These four populations represent approximately 75 percent of the total known plants of this species.

The third criterion we used to identify proposed critical habitat was areas that support stable populations of *Acanthomintha ilicifolia*. For the purpose of this proposed critical habitat designation, we defined stable populations as those that contained more than 1,000 plants at least once during the period for which we have survey data. We evaluated the population data from the CNDDB and determined that populations with more than 1,000 plants at one time had the ability to rebound following years with low population numbers. Therefore, we considered populations with more than 1,000 plants to have a high probability of persisting into the future and thus contribute to the conservation of the species. The locations of these populations are generally characterized by a series of clay lenses where the plants are found in a matrix of intact coastal sage scrub and chaparral. Although these areas are not free from exotic plant competitors, these populations have persisted over time without being out-competed by the exotic plant species present. This may be due in part to the low density of exotic plant species at these locations. In addition to all of the areas that meet criterion two, five other areas meet criterion three: the southeast portion of the City of Carlsbad (EO 47); the Manchester Preserve in Encinitas (EO 28, EO 42, and EO 54); Los Peñasquitos Canyon (EO 19); Sabre Springs (EO 36); and McGinty Mountain in the southern part of San Diego County (EO 21, EO 22, and EO 30). Each of these areas provides habitat that consistently supports large populations of *A. ilicifolia*. Therefore, the area containing these populations is proposed for critical habitat designation under criterion three.

The 10 areas that we identified as meeting the criteria for critical habitat contain the features that are essential for the conservation of this species. These areas support the only population of *Acanthomintha ilicifolia* on calcareous clay soil and the largest and most stable populations. These areas were mapped using data from field surveys and element occurrences in the CNDDB (CNDDB 2006), and unit boundaries were created using GIS.

Annual plants experience annual fluctuation in population density and spatial distribution. Through the review of existing survey data and as a result of field work conducted by Service biologists, it appears that this holds true for *Acanthomintha ilicifolia*, as additional individuals are frequently located outside initially mapped occurrence areas (Bauder et al. 2004, pp. 14–15; CNDDB 2006, pp. 11, 28–29, and 70; Service unpublished data 2006). Because soil data are not available on a fine enough scale to ensure that proposed critical habitat included all occupied habitat, each area mapped for *A. ilicifolia* in the CNDDB was enlarged to include habitat within 500 ft (152 m) around the edge of mapped occurrences. Using aerial photography, we confirmed that no identifiable portion of an occupied clay lens appeared to have been inadvertently omitted and removed manmade features such as roads, buildings, parking lots and agricultural fields. This boundary was then used as our proposed critical habitat boundary.

When determining proposed critical habitat boundaries within this proposed rule, we made every effort to avoid including developed areas such as lands covered by buildings, paved areas, and other structures that lack the PCE for *Acanthomintha ilicifolia*. The scale of the maps prepared under the parameters for publication within the *Code of Federal Regulations* may not reflect the exclusion of such developed areas. Any such structures and the land under them inadvertently left inside critical habitat boundaries shown on the maps of this proposed rule have been excluded by text in the proposed rule and are not proposed for designation as critical habitat. Therefore, Federal actions limited to these areas would not trigger section 7 consultation, unless they may affect the species or primary constituent elements in adjacent critical habitat.

We are proposing to designate critical habitat on lands that we have determined were occupied at the time of listing that contain the PCE that supports life history functions essential for the conservation of the species and lands that were not known to be occupied at the time of listing, but that we have determined are essential to the conservation of the species. The lands that were not known to be occupied at the time of listing are all currently occupied and contain the PCE essential for the conservation of the species. The 10 areas defined above, each representing one population, have been

categorized into four units. Due to large amounts of area that did not contain the PCE in each of the four units, the units were further broken down into 17 subunits so that the essential habitat could be accurately mapped and not include areas that do not have the PCE. These units/subunits are described in the Unit Descriptions section.

Section 10(a)(1)(B) of the Act authorizes us to issue permits for the take of listed animal species incidental to otherwise lawful activities. An incidental take permit application must be supported by a habitat conservation plan (HCP) that identifies conservation measures that the permittee agrees to implement for the species to minimize and mitigate the impacts of the requested incidental take. We often exclude non-Federal public lands and private lands that are covered by an existing operative HCP and executed implementation agreement (IA) under section 10(a)(1)(B) of the Act from designated critical habitat because the benefits of exclusion outweigh the benefits of inclusion as discussed in section 4(b)(2) of the Act. While section 10(a)(1)(B) of the Act does not cover take of listed plant species, HCPs often cover both listed animal and plant species. *Acanthomintha ilicifolia* is a covered species in approved subarea plans under two major HCPs, the San Diego Multiple Species Conservation Program (MSCP) and the San Diego Habitat Conservation Program (MHCP). We are proposing to exclude areas from the final designation of critical habitat where this species is covered by one of these HCPs. See the Exclusions under Section 4(b)(2) of the Act for a detailed discussion of these exclusions. We identify the areas proposed for exclusion in the discussion of individual critical habitat units below.

Special Management Considerations or Protection

When designating critical habitat, we assess whether the areas determined to be occupied at the time of listing contain primary constituent elements that may require special management considerations or protection.

As stated in the final listing rule, threats to *Acanthomintha ilicifolia* include trampling and grazing, the presence of exotic plant species, off-road vehicles (ORVs), mining, and urbanization (63 FR 54938). Through our review of the existing data on *A. ilicifolia*, the threats listed in the final listing rule continue to impact this species and could impact the PCE as well. Building on the information contained in the final listing rule, data on the effects of competition from exotic plant species have been studied in greater detail (Bauder and Sakrison 1999, pp. 6–19, 28–44) and attempts have been made to manage this threat (Kelly 2002, pp. 1–3).

Urban development near *Acanthomintha ilicifolia* populations may alter the habitat characteristics required by the species. The destruction of habitat can change the slope and aspect of the site, making it uninhabitable for *A. ilicifolia* (PCE). The close proximity of development to populations of *A. ilicifolia* may affect other aspects of the site. For example, increased water runoff from developments may erode the clay lens and change the topography of the site (Bauder et al. 1994, p. 23) (PCE).

The introduction of exotic plant species such as *Centaurea melitensis* can drastically change the species present in, and eliminate the open character of, the clay lens habitat (PCE). *Centaurea melitensis* has been shown, in field and greenhouse experiments, to negatively effect the biomass (growth) and seed production (reproduction) of *Acanthomintha ilicifolia* (Bauder and Sakrison 1999, p. 16). Populations of *A. ilicifolia* that are close to urbanized areas or in areas that have been heavily grazed generally have a high density of exotic plant species. In disturbed soils, *C. melitensis* is a common weed. When this and other exotic plant species become established they can out-compete *A. ilicifolia* for light, water, nutrients, and space. *A. ilicifolia* often grows larger and at a higher density when competition with exotic weeds is reduced (Bauder and Sakrison 1999, pp. 12–16; Vinje 2007, p. 10).

The final listing rule (63 FR 54938) discusses the impacts of ORV activity and trampling. In recent years the impacts associated with the use of mountain bikes has been observed to cause similar impacts (Vinje 2006a, p. 1). Trampling, ORV activity, and mountain bike use outside of designated, maintained trails can compact the loose, crumbly soils (PCE). The repeated travel over a trail or track degrades the habitat of *Acanthomintha ilicifolia* in two ways: (1) by displacing soil; and (2) by compacting soil and reducing the amount of water that can percolate, thus reducing the plant's ability to establish roots.

Mining has been documented as a threat at two sites known to support *Acanthomintha ilicifolia* (63 FR 54938; Bauder et al. 1994, p. 17). Mining can alter many aspects of *A. ilicifolia* habitat. Heavy machinery can compact or remove clay lenses (PCE) or alter the slope of an area (PCE). The grading of large areas adjacent to *A. ilicifolia* habitat can make those areas vulnerable to invasion by exotic plant species and lead to the subsequent crowding and shading of *A. ilicifolia* habitat (PCE). All of these impacts may in turn lead to the disruption of the growth and reproduction of *A. ilicifolia* .

Proposed Critical Habitat Designation

We are proposing a total of 1,936 ac (783 ha) in four units as critical habitat for *Acanthomintha ilicifolia* . These four units are further subdivided into 17 subunits. The critical habitat areas described below constitute our best assessment at this time of areas known to be occupied at the time of listing that contain the primary constituent elements that may require special management considerations or protection, and those additional areas that were not known to be occupied at the time of listing (subunits 3E and 4D), but are essential to the conservation of *Acanthomintha ilicifolia* . The four units proposed for designation as critical habitat are: (1) Unit 1: Northern San Diego County; (2) Unit 2: Central San Diego County; (3) Unit 3: Viejas Mountain and Poser Mountain, San Diego County; and (4) Unit 4: Southern San Diego County. We are proposing to exclude 1,302 ac (527 ha) under section 4(b)(2) of the Act from the final designation of critical habitat. Table 1 identifies the occupancy status for each subunit. Table 2 identifies the acreage and ownership of the areas being proposed as critical habitat and the areas proposed for exclusion from the final designation under section 4(b)(2) of the Act (see Relationship of Critical Habitat to Habitat Conservation Plan Lands—Exclusions Under Section 4(b)(2) of the Act below for a detailed discussion).

TABLE 1.—OCCUPANCY OF PROPOSED CRITICAL HABITAT UNITS FOR ACANTHOMINTHA ILICIFOLIA

Critical habitat unit	Known to be occupied to the time of listing?	Occupied currently?	Acres (hectares)
Unit 1: Northern San Diego County			
1A. Palomar Airport (EO 70)	Yes	Yes	88 ac (36 ha)
1B. Southeast Carlsbad (EO 47)	Yes	Yes	73 ac (29 ha)
1C. Manchester (EO 28, EO 42 and EO 54)	Yes	Yes	92 ac (37 ha)
Unit 2: Central San Diego County			
2A. Los Peñasquitos Canyon (EO 19)	Yes	Yes	63 ac (25 ha)
2B. Sabre Springs (EO 36)	Yes	Yes	52 ac (22 ha)
2C. Sycamore Canyon (EO 32)	Yes	Yes	306 ac (124 ha)
2D. Slaughterhouse Canyon (EO 64)	Yes	Yes	77 ac (31 ha)
Unit 3: Viejas Mountain and Poser Mountain 3A. Viejas Mountain (EO 73)	Yes	Yes	33 ac (13 ha)
3B. Viejas Mountain (EO 50)	Yes	Yes	208 ac (84 ha)
3C. Viejas Mountain (EO 51)	Yes	Yes	318 ac (128 ha)
3D. Viejas Mountain (EO 62)	Yes	Yes	82 ac (33 ha)
3E. Poser Mountain (EO 74)	No	Yes	34 ac (14 ha)
3F. Poser Mountain (EO 12)	Yes	Yes	163 ac (66 ha)
Unit 4: Southern San Diego County			
4A. McGinty Mountain (EO 21)	Yes	Yes	18 ac (7 ha)
4B. McGinty Mountain (EO 22)	Yes	Yes	220 ac (89 ha)
4C. McGinty Mountain (EO 30)	Yes	Yes	27 ac (11 ha)
4D. Hollenbeck Canyon (EO L)	No	Yes	84 ac (34 ha)
Total*			1,936 ac (783 ha)

*Some columns may not sum exactly due to rounding of values.

TABLE 2.—PROPOSED CRITICAL HABITAT FOR ACANTHOMINTHA ILICIFOLIA AND THE AREAS BEING PROPOSED FOR EXCLUSION FROM THE FINAL CRITICAL HABITAT DESIGNATION UNDER SECTION 4(B)(2) OF THE ACT (ACRES (AC), HECTARES (HA), CNDDB ELEMENT OCCURRENCES (EO))

Critical habitat unit	Land ownership	Area that meets the definition of critical habitat	Area proposed as critical habitat	Area being considered for exclusion from final critical habitat*
Unit 1: Northern San Diego County				
1A. Palomar Airport (EO 70)	Private	7 ac (3 ha)	7 ac (3 ha)	7 ac (3 ha)
	State/Local	81 ac (33 ha)	81 ac (33 ha)	0 ac (0 ha)
1B. Southeast Carlsbad (EO 47)	Private	73 ac (29 ha)	73 ac (29 ha)	73 ac (29 ha)
1C. Manchester (EO 28, EO 42 and EO 54).	Private	92 ac (37 ha)	92 ac (37 ha)	92 ac (37 ha)
Unit 2: Central San Diego County				
2A. Los Peñasquitos Canyon (EO 19)	State/Local	63 ac (25 ha)	63 ac (25 ha)	63 ac (25 ha)
2B. Sabre Springs (EO 36)	Private	1 ac (1 ha)	1 ac (1 ha)	1 ac (1 ha)
	State/Local	51 ac (21 ha)	51 ac (21 ha)	51 ac (21 ha)
2C. Sycamore Canyon (EO 32)	Private	30 ac (12 ha)	30 ac (12 ha)	30 ac (12 ha)
	State/Local	276 ac (112 ha)	276 ac (112 ha)	276 ac (112 ha)
2D. Slaughterhouse Canyon (EO 64)	Private	77 ac (31 ha)	77 ac (31 ha)	77 ac (31 ha)
Unit 3: Viejas Mountain and Poser Mountain				
3A. Viejas Mountain (EO 73)	Private	33 ac (13 ha)	33 ac (13 ha)	33 ac (13 ha)
3B. Viejas Mountain (EO 50)	Private	156 ac (63 ha)	156 ac (63 ha)	156 ac (63 ha)
	Federal	52 ac (21 ha)	52 ac (21 ha)	0 ac (0 ha)
3C. Viejas Mountain (EO 51)	Private	38 ac (15 ha)	38 ac (15 ha)	38 ac (15 ha)
	Federal	280 ac (113 ha)	280 ac (113 ha)	0 ac (0 ha)
3D. Viejas Mountain (EO 62)	Private	50 ac (20 ha)	50 ac (20 ha)	50 ac (20 ha)
	Federal	32 ac (13 ha)	32 ac (13 ha)	0 ac (0 ha)
3E. Poser Mountain (EO 74)	Federal	34 ac (14 ha)	34 ac (14 ha)	0 ac (0 ha)
3F. Poser Mountain (EO 12)	Private	7 ac (3 ha)	7 ac (3 ha)	7 ac (3 ha)
	Federal	156 ac (63 ha)	156 ac (63 ha)	0 ac (0 ha)
Unit 4: Southern San Diego County				
4A. McGinty Mountain (EO 21)	Private	18 ac (7 ha)	18 ac (7 ha)	18 ac (7 ha)
4B. McGinty Mountain (EO 22)	Private	210 ac (85 ha)	210 ac (85 ha)	210 ac (85 ha)
	State/Local	10 ac (4 ha)	10 ac (4 ha)	10 ac (4 ha)
4C. McGinty Mountain (EO 30)	Private	27 ac (11 ha)	27 ac (11 ha)	27 ac (11 ha)
4D. Hollenbeck Canyon (EO L)	Private	23 ac (9 ha)	23 ac (9 ha)	23 ac (9 ha)
	State/Local	61 ac (25 ha)	61 ac (25 ha)	61 ac (25 ha)

TABLE 2.—PROPOSED CRITICAL HABITAT FOR ACANTHOMINTHA ILICIFOLIA AND THE AREAS BEING PROPOSED FOR EXCLUSION FROM THE FINAL CRITICAL HABITAT DESIGNATION UNDER SECTION 4(B)(2) OF THE ACT (ACRES (AC), HECTARES (HA), CNDDB ELEMENT OCCURRENCES (EO))—Continued

Critical habitat unit	Land ownership	Area that meets the definition of critical habitat	Area proposed as critical habitat	Area being considered for exclusion from final critical habitat*
Total**		1,936 ac (783 ha)	1,936 ac (783 ha)	1,302 ac (527 ha)

*Lands proposed for exclusion from final critical habitat under section 4(b)(2) of the Act due to the conservation provided for *Acanthomintha ilicifolia* from the City of Carlsbad and City of Encinitas subarea plans of the San Diego MHCP and the City of San Diego and County of San Diego subarea plans of the San Diego MSCP.

**Some columns may not sum exactly due to rounding of values.

Below, we present brief descriptions of all units and subunits, and reasons why they meet the definition of critical habitat for *Acanthomintha ilicifolia*. The PCE in each subunit of critical habitat is threatened by the presence of exotic plants and recreational activities (e.g., trampling, erosion and soil compaction caused by hiking, off-road vehicle activity, and mountain biking); therefore, special management considerations or protections of the PCE is required to address these threats.

Unit Descriptions

Unit 1: Northern San Diego County

Unit 1 consists of 253 ac (102 ha) in northern San Diego County divided into three subunits. This critical habitat unit includes habitat for *Acanthomintha ilicifolia* in the cities of Carlsbad and Encinitas under private, State, and local ownership (Table 1). The majority of habitat for *A. ilicifolia* in northern San Diego County is located in proximity to residential and commercial development; however, the habitat being proposed as critical habitat is mostly on land that has been set aside for the conservation of this and other species. This unit contains five element occurrences, all of which were known at the time of listing. The majority of the element occurrences in this unit are covered by the San Diego Multiple Habitat Conservation Program (MHCP). As part of the MHCP, each city will complete a subarea plan. At this time, the City of Carlsbad has completed its subarea plan under the San Diego MHCP and the City of Encinitas is nearing the completion of its subarea plan. We are proposing to exclude 172 ac (70 ha) in the City of Carlsbad (portions of Subunit 1A and all of Subunit 1B) and the City of Encinitas (Subunit 1C) from the final designation of critical habitat based on protections afforded to *A. ilicifolia* under the Carlsbad and Encinitas subarea plans of the MHCP (see Relationship of Critical Habitat to Habitat Conservation Plan Lands—Exclusions Under Section 4(b)(2) of the Act below for more information). The remaining 81 ac (33 ha) in Subunit 1A is owned by the County of San Diego and is not part the San Diego MHCP.

Subunit 1A, Palomar Airport (EO 70)

Subunit 1A consists of 88 ac (36 ha) and was known to be occupied at the time of listing. This subunit contains several habitat patches known to support *Acanthomintha ilicifolia* and contains the feature (PCE) considered to be essential to the conservation of the species. The subunit meets our selection criteria because it supports a population on a unique soil type (criterion 1). This is the only area where *A. ilicifolia* is still known to occupy calcareous clay soils. The PCE in this subunit may require special management considerations or protection to control exotic plant species and reduce impacts associated with recreational activities. This subunit is within the designated preserve area for the Carlsbad subarea plan (referred to as the Carlsbad Habitat Management Plan (HMP)) of the San Diego MHCP; however, most of this subunit is owned by the County of San Diego and not a part of the Carlsbad HMP. The portion covered by the Carlsbad HMP will be managed for the conservation of this species. Therefore, we are proposing to exclude the 7 ac (3 ha) of this subunit that are covered by the Carlsbad HMP from the final designation of critical habitat (Table 1) (see Relationship of Critical Habitat to Habitat Conservation Plan Lands—Exclusions Under Section 4(b)(2) of the Act below for more information). The remaining 81 ac (33 ha) of land owned by the County of San Diego is proposed for inclusion in the designation of critical habitat.

Subunit 1B, Southeast Carlsbad (EO 47)

Subunit 1B consists of 73 ac (29 ha), was known to be occupied at the time of listing, and contains the feature (PCE) considered to be essential to the conservation of the species. The subunit meets our selection criteria because it supports a stable population (criterion 3). This population was estimated to have 400 plants in 1989, 2,000 plants in 1994, and 500 plants in 2006. The PCE in this subunit may require special management considerations or protection to control exotic plant species and reduce impacts associated with recreational activities. The majority of the lands within this subunit are within an area designated as a hardline conservation area (an area that has already been or is slated to be preserved) and the entire subunit is covered by the Carlsbad HMP of the San Diego MHCP which will provide substantial protection and management of the PCE essential to the conservation of *Acanthomintha ilicifolia*. Therefore, we are proposing to exclude this subunit from the final designation of critical habitat (Table 1) (see Relationship of Critical Habitat to Habitat Conservation Plan Lands—Exclusions Under Section 4(b)(2) of the Act below for more information).

Subunit 1C, Manchester (EO 42, EO 28, and EO 54)

Subunit 1C consists of 92 ac (37 ha), was known to be occupied at the time of listing, and contains the feature (PCE) considered to be essential to the conservation of the species. The subunit meets our selection criteria because it supports a stable population (criterion 3). This population was estimated to have 5,000 plants in 1984, 300 plants in 1985, 100 plants in 1986, 571 plants in 1989, 2,000 plants in 1990, 4,000 plants in 1999, 5,000 plants in 1994, 3,000 plants in 2005, and 500 plants in 2006. The PCE in this subunit may require special management considerations or protection to control exotic plant species and reduce impacts associated with recreational activities.

Lands within this subunit are within a Focused Planning Area (core areas and linkages important for conservation of sensitive species) as designated under the City of Encinitas subarea plan of the San Diego MHCP. This plan indicates that the City of Encinitas will complete the HCP process under the San Diego

MHCP and implement the conservation measures outlined for *Acanthomintha ilicifolia*. We are proposing to exclude all non-Federal lands in Subunit 1C covered by the City of Encinitas subarea plan of the San Diego MHCP from the final designation of critical habitat pursuant to section 4(b)(2) of the Act (Table 1) (see Relationship of Critical Habitat to Habitat Conservation Plan Lands—Exclusions Under Section 4(b)(2) of the Act below for more information). However, since it is our understanding that little progress has been made by the City of Encinitas to finalize their subarea plan since the 2001 release of the draft plan, we are seeking public comment on our proposed exclusion (see Public Comments Solicited section above). Based on information received during the public comment period, the Secretary may determine that sufficient progress has not been made and that lands within the City of Encinitas' subarea plan should not be excluded from the final designation of critical habitat.

Unit 2: Central San Diego County

Unit 2 consists of 497 ac (201 ha) divided into four subunits. This unit is located in central San Diego County. This critical habitat unit includes habitat for *Acanthomintha ilicifolia* in the City of San Diego and in portions of unincorporated County of San Diego under private, State, and local ownership (Table 1). The majority of habitat for *A. ilicifolia* in Unit 2 is located within preserves and open space; however, the PCE in this unit may require special management considerations or protection to control exotic plant species and reduce impacts associated with recreational activities. All of the element occurrences included in Unit 2 are protected under the approved City of San Diego and County of San Diego subarea plans under the San Diego Multiple Species Conservation Program (MSCP); therefore, we are proposing to exclude all four subunits from the final designation of critical habitat (see Relationship of Critical Habitat to Habitat Conservation Plan Lands—Exclusions Under Section 4(b)(2) of the Act below for more information).

Subunit 2A, Peñasquitos Canyon (EO 19)

Subunit 2A consists of 63 ac (25 ha), was known to be occupied at the time of listing, and contains the feature (PCE) considered to be essential to the conservation of the species. The subunit meets our selection criteria because it supports a stable population (criterion 3). This population was estimated to have 1,000 plants in 1986, 740 plants in 1990, 14 plants in 1991, 36 plants in 1992, 1,800 plants in 1994, 1,053 plants in 2000, 601 plants in 2001, 0 plants in 2002, 726 plants in 2003, 501 plants in 2004, and 2,091 plants in 2005. The PCE in this subunit may require special management considerations or protection to control exotic plant species and reduce impacts associated with recreational activities. This area is covered under the City of San Diego subarea plan of the San Diego MSCP and is within an area designated as a hardline conservation area. Therefore, we are proposing to exclude this area from the final designation of critical habitat (Table 1) (see Relationship of Critical Habitat to Habitat Conservation Plan Lands—Exclusions Under Section 4(b)(2) of the Act below for more information).

Subunit 2B, Sabre Springs (EO 36)

Subunit 2B consists of 52 ac (22 ha), was known to be occupied at the time of listing, and contains the feature (PCE) considered to be essential to the conservation of the species. The subunit meets our selection criteria because it supports a stable population (criterion 3). This population was estimated to have 5,970 plants in 1989, 2,900 plants in 1990, 7,000 plants in 1992, 16,400 plants in 1994, 3,858 plants in 2000, 2,832 plants in 2001, 250 plants in 2002, 19,721 plants in 2003, 17,085 plants in 2004, 13 plants in 2005, and 150 plants in 2006. The PCE in this subunit may require special management considerations or protection to control exotic plant species and reduce impacts associated with recreational activities. This area is covered under the City of San Diego subarea plan of the San Diego MSCP and is within an area designated as a hardline conservation area. Therefore, we are proposing to exclude this area from the final designation of critical habitat (Table 1) (see Relationship of Critical Habitat to Habitat Conservation Plan Lands—Exclusions Under Section 4(b)(2) of the Act below for more information).

Subunit 2C, Sycamore Canyon (EO 32)

Subunit 2C consists of 306 ac (144 ha), was known to be occupied at the time of listing, and contains the feature (PCE) considered to be essential to the conservation of the species. The subunit meets our selection criteria because it is one of the largest recorded populations of *Acanthomintha ilicifolia* and it supports a stable population (criteria 2 and 3). This population was estimated to have 3,000 plants in 1986, 200 plants in 1989, 8,800 plants in 1992, and 31,000 plants in 1994. The PCE in this subunit may require special management considerations or protection to control exotic plant species and reduce impacts associated with recreational activities. In the San Diego MSCP analysis, this area was recognized as one of eight "major populations." This area is covered under the County of San Diego subarea plan of the San Diego MSCP and is within an area designated as a hardline conservation area; therefore, we are proposing to exclude this area from the final designation of critical habitat (Table 1) (see Relationship of Critical Habitat to Habitat Conservation Plan Lands—Exclusions Under Section 4(b)(2) of the Act below for more information).

Subunit 2D, Slaughterhouse Canyon (EO 64)

Subunit 2D consists of 77 ac (31 ha), was known to be occupied at the time of listing, and contains the feature (PCE) considered to be essential to the conservation of the species. The subunit meets our selection criteria because it supports one of the largest recorded populations of *Acanthomintha ilicifolia* (criterion 2). This population was estimated to have 60,000 plants in 1993. The PCE in this subunit may require special management considerations or protection to control exotic plant species and reduce impacts associated with recreational activities. In the San Diego MSCP analysis, this area was recognized as one of eight major populations. The element occurrence of *A. ilicifolia* at this site is on open space adjacent to a sand and gravel mining operation. This element occurrence is covered under the County of San Diego subarea plan of the San Diego MSCP. Therefore, we are proposing to exclude this area from the final designation of critical habitat (Table 1) (see Relationship of Critical Habitat to Habitat Conservation Plan Lands—Exclusions Under Section 4(b)(2) of the Act below for more information).

Unit 3: Viejas Mountain and Poser Mountain

Unit 3 consists of 837 ac (339 ha) divided into six subunits in interior San Diego County. This critical habitat unit includes habitat for *Acanthomintha ilicifolia* in the City of Alpine and in the Cleveland National Forest on Viejas and Poser Mountains. The majority of habitat for *A. ilicifolia* in this unit is located on land managed by the U.S. Forest Service (USFS) (Table 1). The element occurrences that are on Viejas and Poser Mountains are interspersed in clay patches in a mosaic of relatively

undisturbed habitat. Due to the proximity of these element occurrences and the fact that the habitat is not fragmented by any manmade barriers, these element occurrences are considered to be a single population of *A. ilicifolia*. This unit is proposed for critical habitat designation because it supports one of the largest recorded populations of the species (criterion 2). This population is estimated to have greater than 30,000 plants based on the maximum number of plants observed at the different element occurrences (EO 12, 6,650 plants in 1991; EO 50, 5,600 plants in 1994; EO 51, 8,300 plants in 2003; EO 62, 1,115 plants in 2000; EO 73, 8,750 plants in 1997; and EO 74, 2,000 plants in 2000). The PCE in this unit may require special management to control exotic plant species. This unit has some areas that are protected as part of the San Diego MSCP. We are proposing to exclude non-Federal lands covered by the County of San Diego subarea plan of the San Diego MSCP in this unit (284 ac (115 ha)) from the final designation of critical habitat (Table 1) (see Relationship of Critical Habitat to Habitat Conservation Plan Lands—Exclusions Under Section 4(b)(2) of the Act below for more information).

Subunit 3A, Viejas Mountain (EO 73)

Subunit 3A consists of 33 ac (13 ha), was known to be occupied at the time of listing, and contains the feature (PCE) considered to be essential to the conservation of the species. Subunit 3A is privately owned and covered by the County of San Diego subarea plan of the San Diego MSCP (33 ac (13 ha)). The PCE in this subunit may require special management considerations or protection to control exotic plant species and reduce impacts associated with recreational activities. Because the County of San Diego subarea plan provides for the conservation of *Acanthomintha ilicifolia* and this subunit is within a hardline conservation area, we are proposing to exclude all of this subunit from the final designation of critical habitat (Table 1) (see Relationship of Critical Habitat to Habitat Conservation Plan Lands—Exclusions Under Section 4(b)(2) of the Act below for more information).

Subunit 3B, Viejas Mountain (EO 50)

Subunit 3B consists of 208 ac (84 ha), was known to be occupied at the time of listing, and contains the feature (PCE) considered to be essential to the conservation of the species. Subunit 3B includes land managed by the USFS and land under private ownership. The privately owned land is covered by the County of San Diego subarea plan of the San Diego MSCP (156 ac (63 ha)). The PCE in this subunit may require special management considerations or protection to control exotic plant species and reduce impacts associated with recreational activities. Because the County of San Diego subarea plan provides for the conservation of *Acanthomintha ilicifolia*, we are proposing to exclude the portion of this subunit on private land from the final designation of critical habitat (Table 1) (see Relationship of Critical Habitat to Habitat Conservation Plan Lands—Exclusions Under Section 4(b)(2) of the Act below for more information). The remaining 52 ac (21 ha) of federally owned land is proposed for inclusion in the designation of critical habitat.

Subunit 3C, Viejas Mountain (EO 51)

Subunit 3C consists of 318 ac (129 ha), was known to be occupied at the time of listing, and contains the feature (PCE) considered to be essential to the conservation of the species. Subunit 3C includes land managed by the USFS and land under private ownership. The privately owned land is covered by the County of San Diego subarea plan of the San Diego MSCP (38 ac (15 ha)), some of which falls within a hardline conservation area. The PCE in this subunit may require special management considerations or protection to control exotic plant species and reduce impacts associated with recreational activities. Because the County of San Diego subarea plan provides for the conservation of *Acanthomintha ilicifolia*, we are proposing to exclude the portion of this subunit on private land from the final designation of critical habitat (Table 1) (see Relationship of Critical Habitat to Habitat Conservation Plan Lands—Exclusions Under Section 4(b)(2) of the Act below for more information). The remaining 280 ac (113 ha) of federally owned land is proposed for inclusion in the designation of critical habitat.

Subunit 3D, Viejas Mountain (EO 62)

Subunit 3D consists of 82 ac (33 ha), was known to be occupied at the time of listing, and contains the feature (PCE) considered to be essential to the conservation of the species. Subunit 3D includes land managed by the USFS and land under private ownership. The privately owned land is covered by the County of San Diego subarea plan of the San Diego MSCP (50 ac (20 ha)), some of which falls within a hardline conservation area. The PCE in this subunit may require special management considerations or protection to control exotic plant species and reduce impacts associated with recreational activities. Because the County of San Diego subarea plan provides for the conservation of *Acanthomintha ilicifolia*, we are proposing to exclude the portion of this subunit on private land from the final designation of critical habitat (Table 1) (see Relationship of Critical Habitat to Habitat Conservation Plan Lands—Exclusions Under Section 4(b)(2) of the Act below for more information). The remaining 32 ac (13 ha) of federally owned land is proposed for inclusion in the designation of critical habitat.

Subunit 3E, Poser Mountain (EO 74)

Subunit 3E consists of 34 ac (14 ha) and was not known to be occupied at the time of listing; however, this area is currently occupied and contains the PCE. This area containing population (EO 74) is essential to the conservation of *Acanthomintha ilicifolia* because it meets criterion 2 for designation of critical habitat in that it is a portion of the four largest known populations of *A. ilicifolia*. Based on our analysis of reported density estimates, this subunit contains approximately 6 percent of individuals in the greater Poser and Viejas Mountain population. In 2000, when this population was discovered, it totaled 2,000 plants. This subunit is on land managed by the USFS. No exclusions are proposed for this subunit. Therefore, 34 ac (14 ha) of federally owned land is proposed for inclusion in the final designation of critical habitat.

Subunit 3F, Poser Mountain (EO 12)

Subunit 3F consists of 163 ac (66 ha), was known to be occupied at the time of listing, and contains the feature (PCE) considered to be essential to the conservation of the species. Subunit 3F includes land managed by the USFS and land under private ownership. The privately owned land is covered by the County of San Diego subarea plan of the San Diego MSCP (7 ac (3 ha)), some of which falls within a hardline conservation area. The PCE in this unit may require special management considerations or protection to control exotic plant species and reduce impacts associated with recreational activities. Because the County of San Diego subarea plan provides for the conservation of *Acanthomintha ilicifolia*, we are proposing to exclude the portion of this subunit on private land from the final designation of critical habitat (Table 1) (see Relationship of Critical Habitat to Habitat Conservation Plan Lands—Exclusions Under Section 4(b)(2) of the Act below for more information). The remaining 156 ac (63 ha) of federally

owned land is proposed for inclusion in the designation of critical habitat.

Unit 4: Southern San Diego County

Unit 4 consists of 351 ac (142 ha) divided into four subunits in southern San Diego County. This critical habitat unit includes habitat for *Acanthomintha ilicifolia* near the City of Jamul in the southern portion of the unincorporated County of San Diego that is under private, State, and local ownership (Table 1). The habitat for *A. ilicifolia* in southern San Diego County is located in proximity to rural residential development and in relatively undeveloped areas. This unit has many element occurrences that are protected as part of the San Diego MSCP and included in the subarea plan for the County of San Diego. All of the land proposed for critical habitat in this unit is covered by this subarea plan. Therefore, we propose to exclude all four subunits covered by the San Diego MSCP from the final designation of critical habitat (see Relationship of Critical Habitat to Habitat Conservation Plan Lands—Exclusions Under Section 4(b)(2) of the Act below for more information).

Subunits 4A, 4B, and 4C, McGinty Mountain (EO 21, EO 22, and EO 30)

Subunits 4A, 4B, and 4C consist of 265 ac (107 ha), were known to be occupied at the time of listing, and contain the feature (PCE) considered to be essential to the conservation of the species. These sites include three element occurrences occupied by *Acanthomintha ilicifolia* on McGinty Mountain, and due to the proximity of these element occurrences, they are considered to be a single population. This population was estimated to have 1,200 plants in 1986, and 2,625 plants in 1994. The PCE in this unit may require special management considerations or protection to control exotic plant species and reduce impacts associated with recreational activities. In the San Diego MSCP analysis, this area was considered one of eight major populations discussed in the plan. This population is included in the County of San Diego subarea plan of the San Diego MSCP and is within an area designated as a hardline conservation area. Therefore, we are proposing to exclude the entirety of these subunits from the final designation of critical habitat (Table 1) (see Relationship of Critical Habitat to Habitat Conservation Plan Lands—Exclusions Under Section 4(b)(2) of the Act below for more information).

Subunit 4D, Hollenbeck Canyon (EO L)

Subunit 4D consists of 84 ac (34 ha) and was not known to be occupied at the time of listing; however it is currently occupied and contains the PCE. This site is on the Hollenbeck Canyon Wildlife Area, a preserve owned and managed by the California Department of Fish and Game. This area is essential to the conservation of the species because it meets criterion 2 for designation of critical habitat in that it contains approximately 100,000 plants, the largest known population of *Acanthomintha ilicifolia*; almost twice as large as the next largest population at Slaughterhouse Canyon (EO 64), that has 60,000 plants. The population in this subunit was estimated to contain 30,000 plants in 2002 which suggests active recruitment at this location. This population is included in the County of San Diego subarea plan of the San Diego MSCP and the majority of the subunit is within an area designated as a hardline conservation area. Therefore, we are proposing to exclude all of this subunit from the final designation of critical habitat (Table 1) (see Relationship of Critical Habitat to Habitat Conservation Plan Lands—Exclusions Under Section 4(b)(2) of the Act below for more information).

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7 of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out are not likely to destroy or adversely modify critical habitat. In our regulations at 50 CFR 402.02, we define destruction or adverse modification as "a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical." However, recent decisions by the 5th and 9th Circuit Court of Appeals have invalidated this definition (see *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service*, 378 F. 3d 1059 (9th Cir 2004) and *Sierra Club* v. *U.S. Fish and Wildlife Service*, 245 F.3d 434, 442F (5th Cir 2001)). Pursuant to current national policy and the statutory provisions of the Act, destruction or adverse modification is determined on the basis of whether, with implementation of the proposed Federal action, the affected critical habitat would remain functional (or retain the current ability for the primary constituent elements to be functionally established) to serve the intended conservation role for the species.

Section 7(a) of the Act requires Federal agencies, including the Service, to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is proposed or designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402.

Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. This is a procedural requirement only. However, once a proposed species becomes listed, or proposed critical habitat is designated as final, the full prohibitions of section 7(a)(2) of the Act apply to any Federal action. The primary utility of the conference procedures is to maximize the opportunity for a Federal agency to adequately consider proposed species and critical habitat and avoid potential delays in implementing their proposed action as a result of the section 7(a)(2) compliance process, should those species be listed or the critical habitat designated.

Under conference procedures, the Service may provide advisory conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The Service may conduct either informal or formal conferences. Informal conferences are typically used if the proposed action is not likely to have any adverse effects to the proposed species or proposed critical habitat. Formal conferences are typically used when the Federal agency or the Service believes the proposed action is likely to cause adverse effects to proposed species or critical habitat, inclusive of those that may cause jeopardy or adverse modification.

The results of an informal conference are typically transmitted in a conference report, while the results of a formal conference are typically transmitted in a conference opinion. Conference opinions on proposed critical habitat are typically prepared according to 50 CFR 402.14, as if the proposed critical habitat were designated. We may adopt the conference opinion as the biological opinion when the critical habitat is designated, if no substantial new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)). As noted above, any conservation recommendations in a

conference report or opinion are strictly advisory.

If a species is listed or critical habitat is designated, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. As a result of this consultation, compliance with the requirements of section 7(a)(2) of the Act will be documented through the Service's issuance of: (1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or (2) a biological opinion for Federal actions that are likely to adversely affect listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to result in jeopardy to a listed species or the destruction or adverse modification of critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. "Reasonable and prudent alternatives" are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the Director believes would avoid jeopardy to the listed species or destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in certain instances, including where a new species is listed or critical habitat is subsequently designated that may be affected by the Federal action, where the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions may affect subsequently listed species or designated critical habitat or adversely modify or destroy proposed critical habitat.

Federal activities that may affect *Acanthomintha ilicifolia* or its designated critical habitat will require section 7 consultation under the Act. Activities on State, Tribal, local, or private lands requiring a Federal permit (such as a permit from the Army Corps of Engineers under section 404 of the Clean Water Act or a permit under section 10(a)(1)(B) of the Act from the Service) or involving some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency) will also be subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat, and actions on State, Tribal, local, or private lands that are not federally funded, authorized, or permitted, do not require section 7 consultations.

Application of the Jeopardy and Adverse Modification Standards for Actions Involving Effects to Acanthomintha ilicifolia and Its Critical Habitat

Jeopardy Standard

The Service applies an analytical framework for *Acanthomintha ilicifolia* jeopardy analyses that relies heavily on the importance of core area populations to the survival and recovery of *A. ilicifolia*. The section 7(a)(2) analysis is focused not only on these populations but also on the habitat conditions necessary to support them.

The jeopardy analysis usually expresses the survival and recovery needs of *Acanthomintha ilicifolia* in a qualitative fashion without making distinctions between what is necessary for survival and what is necessary for recovery. Generally, if a proposed Federal action is incompatible with the viability of the affected core area population(s), inclusive of associated habitat conditions, a jeopardy finding is considered to be warranted because of the relationship of each core area population to the survival and recovery of the species as a whole.

Adverse Modification Standard

If this proposal is adopted, the analytical framework described in the Director's December 9, 2004, memorandum will be used to complete section 7(a)(2) analyses for Federal actions affecting *Acanthomintha ilicifolia* critical habitat The key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would remain functional (or retain the current ability for the primary constituent elements to be functionally established) to serve the intended conservation role for the species. Generally, the conservation role of *A. ilicifolia* critical habitat units is to support viable core area populations.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat may also jeopardize the continued existence of the species.

Activities that may destroy or adversely modify critical habitat are those that alter the PCE to an extent that the conservation value of critical habitat for *Acanthomintha ilicifolia* is appreciably reduced. Activities that, when carried out, funded, or authorized by a Federal agency, may affect critical habitat and therefore result in consultation for *A. ilicifolia* include, but are not limited to:

(1) Actions that would disturb or remove the clay soils within a subunit of critical habitat. Such activities could include, but are not limited to, clearing areas for development and roads, creation of trails, and installation of pipelines or other underground infrastructure. These activities could eliminate or reduce the habitat necessary for the growth and reproduction of *Acanthomintha ilicifolia*.

(2) Actions that would introduce exotic plant species or alter the natural habitat in a way that increases the likelihood for the invasion of exotic plant species. Such activities could include, but are not limited to, the introduction of fill dirt to development sites adjacent to *Acanthomintha ilicifolia* critical habitat, grading areas for agriculture, clearing native vegetation, and the use of mountain bikes and off-highway vehicles. These activities could create space for populations of exotic plants to grow and then invade *A. ilicifolia* habitat or bring the seeds of exotic plants into *A. ilicifolia* habitat, thus filling the open space needed for the growth and reproduction of this species with exotic plant competitors.

(3) Actions that would alter the hydrology of critical habitat subunits. Such activities could include, but are not limited to, runoff from developed streets, runoff from irrigated landscapes, and increased flow or erosion from

storm drains. These activities could alter the timing and amount of water that *Acanthomintha ilicifolia* plants receive, altering their phenology and fecundity. These activities could also cause the erosion of the clay soils that are necessary for the growth of *A. ilicifolia*.

We consider all of the units proposed as critical habitat, as well as those that have been proposed for exclusion from the final designation, to contain features essential to the conservation of *Acanthomintha ilicifolia*. All units are within the geographic range of the species, all units except 3E and 4D were occupied by the species at the time of listing, and all units are currently occupied (based on observations made within the last 15 years). Federal agencies already consult with us on activities in areas currently occupied by *A. ilicifolia*, or if the species may be affected by the action, to ensure that their actions do not jeopardize the continued existence of *A. ilicifolia*.

Exclusions Under Section 4(b)(2) of the Act

There are multiple ways to provide management or protection for species' habitat. Statutory and regulatory frameworks that exist at a local level can provide protection or management, as can lack of pressure for change, such as areas too remote for anthropogenic disturbance. Finally, State, local, or private management plans, as well as management under Federal agencies' jurisdictions, can provide protection or management that may lessen or even eliminate any appreciable benefit to a designation of critical habitat. When we consider a plan to determine its adequacy in protecting habitat, we consider whether the plan, as a whole, will provide the same level of protection that designation of critical habitat would provide. The plan need not lead to exactly the same result as a designation in every individual application, as long as the protection it provides is equivalent, overall. In making this determination, we examine whether the plan provides management, protection, or enhancement of the PCEs that is at least equivalent to that provided by a critical habitat designation, and whether there is a reasonable expectation that the management, protection, or enhancement actions will continue into the foreseeable future. Each review is particular to the species and the plan, and some plans may be adequate for some species and inadequate for others.

Section 4(b)(2) of the Act states that critical habitat shall be designated, and revised, on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the Secretary is afforded broad discretion, and the Congressional record is clear that in making a determination under the section the Secretary has discretion as to which factors to use and how much weight will be given to any factor.

Under section 4(b)(2) of the Act, in considering whether to exclude a particular area from the designation, we must identify the benefits of including the area in the designation, identify the benefits of excluding the area from the designation, and determine whether the benefits of exclusion outweigh the benefits of inclusion. If an exclusion is contemplated, then we must determine whether excluding the area would result in the extinction of the species. In the following sections, we address a number of general issues that are relevant to the exclusions we considered. In addition, the Service is conducting an economic analysis of the impacts of the proposed critical habitat designation and related factors, which will be available for public review and comment. Based on public comment on that document, the proposed designation itself, and the information in the final economic analysis, areas in addition to those proposed for exclusion here may be excluded from critical habitat by the Secretary under the provisions of section 4(b)(2) of the Act. This is provided for in the Act, and in our implementing regulations at 50 CFR 424.19.

Conservation Partnerships on Non-Federal Lands

Most federally listed species in the United States will not recover without the cooperation of non-Federal landowners. More than 60 percent of the United States is privately owned (National Wilderness Institute 1995), and at least 80 percent of endangered or threatened species occur either partially or solely on private lands (Crouse et al. 2002). Stein et al. (1995) found that only about 12 percent of listed species were found almost exclusively on Federal lands (90–100 percent of their known occurrences restricted to Federal lands) and that 50 percent of federally listed species are not known to occur on Federal lands at all.

Given the distribution of listed species with respect to land ownership, conservation of listed species in many parts of the United States is dependent upon working partnerships with a wide variety of entities and the voluntary cooperation of many non-Federal landowners (Wilcove and Chen 1998; Crouse et al. 2002; James 2002). Building partnerships and promoting voluntary cooperation of landowners is essential to understanding the status of species on non-Federal lands and is necessary to implement recovery actions such as reintroducing listed species, habitat restoration, and habitat protection.

Many non-Federal landowners derive satisfaction in contributing to endangered species recovery. The Service promotes these private-sector efforts through the Four Cs philosophy—conservation through communication, consultation, and cooperation. This philosophy is evident in Service programs such as HCPs, Safe Harbor Agreements, Candidate Conservation Agreements, Candidate Conservation Agreements with Assurances, and conservation challenge cost-share. Many private landowners, however, are wary of the possible consequences of encouraging endangered species to their property, and there is mounting evidence that some regulatory actions by the Federal government, while well-intentioned and required by law, can under certain circumstances have unintended negative consequences for the conservation of species on private lands (Wilcove et al. 1996; Bean 2002; Conner and Mathews 2002; James 2002; Koch 2002, Brook et al. 2003). Many landowners fear a decline in their property value due to real or perceived restrictions on land-use options where threatened or endangered species are found. Consequently, harboring endangered species is viewed by many landowners as a liability, resulting in anti-conservation incentives because maintaining habitats that harbor endangered species represents a risk to future economic opportunities (Main et al. 1999; Brook et al. 2003).

The purpose of designating critical habitat is to contribute to the conservation of threatened and endangered species and the ecosystems upon which they depend. The outcome of the designation, triggering regulatory requirements for actions funded, authorized, or carried out by Federal agencies under section 7 of the Act, can

sometimes be counterproductive to its intended purpose on non-Federal lands. According to some researchers, the designation of critical habitat on private lands significantly reduces the likelihood that landowners will support and carry out conservation actions (Main et al. 1999; Bean 2002; Brook et al. 2003). The magnitude of this negative outcome is greatly amplified in situations where active management measures (e.g., reintroduction, fire management, control of invasive species) are necessary for species conservation (Bean 2002). The Service believes that the judicious exclusion of specific areas of non-federally owned lands from critical habitat designation can contribute to species recovery and provide a superior level of conservation than critical habitat alone.

The Department of Interior's Cooperative Conservation philosophy is the foundation for developing the tools of conservation. These tools include conservation grants, funding for Partners for Fish and Wildlife Program, the Coastal Program, and cooperative-conservation challenge cost-share grants. Our Private Stewardship Grant program and Landowner Incentive Program provide assistance to private landowners in their voluntary efforts to protect threatened, imperiled, and endangered species, including the development and implementation of HCPs.

Conservation agreements with non-Federal landowners (e.g., HCPs, contractual conservation agreements, easements, and stakeholder-negotiated State regulations) enhance species conservation by extending protections for species beyond those available through section 7 consultations. In the past decade, we have encouraged non-Federal landowners to enter into conservation agreements, based on a view that we can achieve greater species conservation on non-Federal land through such partnerships than we can through coercive methods (61 FR 63854; December 2, 1996).

General Principles of Section 7 Consultations Used in the 4(b)(2) Balancing Process

The most direct, and potentially largest, regulatory benefit of critical habitat is that federally authorized, funded, or carried out activities require consultation pursuant to section 7 of the Act to ensure that they are not likely to destroy or adversely modify critical habitat. There are two limitations to this regulatory effect. First, it only applies where there is a Federal nexus—if there is no Federal nexus—designation itself does not restrict actions that destroy or adversely modify critical habitat. Second, it only limits destruction or adverse modification. By its nature, the prohibition on adverse modification is designed to ensure those areas that contain the physical and biological features essential to the conservation of the species or unoccupied areas that are essential to the conservation of the species are not eroded. Critical habitat designation alone, however, does not require specific steps toward recovery.

Once consultation under section 7 of the Act is triggered, the process may conclude informally when the Service concurs in writing that the proposed Federal action is not likely to adversely affect the listed species or its critical habitat. However, if the Service determines through informal consultation that adverse impacts are likely to occur, then formal consultation would be initiated. Formal consultation concludes with a biological opinion issued by the Service on whether the proposed Federal action is likely to jeopardize the continued existence of a listed species or result in destruction or adverse modification of critical habitat, with separate analyses being made under both the jeopardy and the adverse modification standards. For critical habitat, a biological opinion that concludes in a determination of no destruction or adverse modification may contain discretionary conservation recommendations to minimize adverse effects to primary constituent elements, but it would not contain any mandatory reasonable and prudent measures or terms and conditions. Mandatory measures and terms and conditions to implement such measures are only specified when the proposed action would result in the incidental take of a listed animal or species. Reasonable and prudent alternatives to the proposed Federal action would only be suggested when the biological opinion results in a jeopardy or adverse modification conclusion.

We also note that for 30 years prior to the Ninth Circuit Court's decision in *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service*, 378 F.3d 1059 (9th Cir 2004) (hereinafter *Gifford Pinchot*), the Service conflated the jeopardy standard with the standard for destruction or adverse modification of critical habitat when evaluating Federal actions that affect currently occupied critical habitat. The Court ruled that the two standards are distinct and that adverse modification evaluations require consideration of impacts on the recovery of species. Thus, under the *Gifford Pinchot* decision, critical habitat designations may provide greater benefits to the recovery of a species. However, we believe the conservation achieved through implementing HCPs or other habitat management plans is typically greater than would be achieved through multiple site-by-site, project-by-project, section 7 consultations involving consideration of critical habitat. Management plans commit resources to implement long-term management and protection to particular habitat for at least one and possibly other listed or sensitive species. Section 7 consultations only commit Federal agencies to prevent adverse modification to critical habitat caused by the particular project, and they are not committed to provide conservation or long-term benefits to areas not affected by the proposed project. Thus, any HCP or management plan which considers enhancement or recovery as the management standard will often provide as much or more benefit than a consultation for critical habitat designation conducted under the standards required by the Ninth Circuit in the *Gifford Pinchot* decision.

The information provided in this section applies to all the discussions below that discuss the benefits of inclusion and exclusion of critical habitat in that it provides the framework for the consultation process.

Educational Benefits of Critical Habitat

A benefit of including lands in critical habitat is that the designation of critical habitat serves to educate landowners, State and local governments, and the public regarding the potential conservation value of an area. This helps focus and promote conservation efforts by other parties by clearly delineating areas of high conservation value for *Acanthomintha ilicifolia*. In general, the educational benefit of a critical habitat designation always exists, although in some cases it may be redundant with other educational effects. For example, HCPs have significant public input and may largely duplicate the educational benefit of a critical habitat designation. This benefit is closely related to a second, more indirect benefit: that designation of critical habitat would inform State agencies and local governments about areas that could be conserved under State laws or local ordinances.

However, we believe that there would be little additional informational benefit gained from the designation of critical habitat for the exclusions we are proposing in this rule because these areas are identified as having habitat containing the features essential to the conservation of the species. Consequently, we believe that the informational benefits are already

provided even though these areas are not designated as critical habitat. Additionally, the purpose normally served by the designation, that of informing State agencies and local governments about areas that would benefit from protection and enhancement of habitat for *Acanthomintha ilicifolia* is already well established among State and local governments, and Federal agencies, in those areas that we are proposing to exclude from critical habitat in this rule on the basis of other existing habitat management protections.

The information provided in this section applies to all the discussions below that discuss the benefits of inclusion and exclusion of critical habitat.

Benefits of Excluding Lands With HCPs or Other Approved Management Plans From Critical Habitat

The benefits of excluding lands with HCPs or other approved management plans from critical habitat designation include relieving landowners, communities, counties, and States of any additional regulatory burden that may occur through a critical habitat designation. Most HCPs and other conservation plans take many years to develop and, upon completion, are consistent with the recovery objectives for listed species that are covered within the plan area. Many conservation plans not only provide conservation benefits to federally listed species, but also to unlisted sensitive species. Imposing an additional layer of regulatory review as a result of the designation of critical habitat may undermine these conservation efforts and partnerships in many areas where HCPs or management plans exist or are being developed. Designation of critical habitat within the boundaries of management plans that provide conservation measures for a species could be viewed as a disincentive to those entities currently developing these plans or contemplating them in the future, because one of the incentives for undertaking conservation is greater ease of permitting where listed species are affected. The addition of a new regulatory requirement would remove a significant incentive for undertaking the time and expense of management planning. In fact, designating critical habitat in areas covered by a pending HCP or conservation plan could result in the loss of some conservation benefits to the species if participants abandon the planning process, in part because of the strength of the perceived additional regulatory compliance that such designation would entail. The time and cost of regulatory compliance for a critical habitat designation do not have to be quantified for them to be perceived as additional Federal regulatory burden sufficient to discourage continued participation in plans targeting listed species' conservation.

A related benefit of excluding lands within an HCP or other management plan from critical habitat designation is the unhindered, continued ability to seek new partnerships with future plan participants including States, counties, local jurisdictions, conservation organizations, and private landowners, which together can implement conservation actions that we would be unable to accomplish otherwise. If lands within approved HCP or other management plan areas are designated as critical habitat, it would likely have a negative effect on our ability to establish new partnerships to develop these plans, particularly plans that address landscape-level conservation of species and their habitats. By excluding these lands, we preserve our current partnerships and encourage additional conservation actions in the future.

Furthermore, an HCP or Natural Communities Conservation Plan (NCCP)/HCP application must itself be consulted upon, even without the critical habitat designation. Such a consultation would review the effects of all activities covered by the HCP that might adversely impact the species under a jeopardy standard, including possibly significant habitat modification (see definition of "harm" at 50 CFR 17.3). In addition, Federal actions not covered by the HCP in areas occupied by listed species would still require consultation under section 7 of the Act and would be reviewed for possibly significant habitat modification in accordance with the definition of harm referenced above.

The information provided in this section applies to all the discussions below that discuss the benefits of inclusion and exclusion of critical habitat.

Exclusions Under Section 4(b)(2) of the Act for Acanthomintha ilicifolia

After consideration under section 4(b)(2) of the Act, we are proposing to exclude the following areas from critical habitat for *Acanthomintha ilicifolia*: private lands covered by the San Diego Multiple Habitat Conservation Program in subunits 1A, 1B, and 1C and private lands covered by the San Diego Multiple Species Conservation Program in subunits 2A, 2B , 2C, 2D, 3A, 3B, 3C, 3D, 3F, 4A, 4B, 4C, and 4D. We believe that: (1) The value of these lands for conservation has been addressed by existing protective actions, or (2) it is appropriate to exclude these lands pursuant to the "other relevant factor" provisions of section 4(b)(2) of the Act. We specifically solicit comment, however, on the inclusion or exclusion of such areas. A detailed analysis of our exclusion of these lands under section 4(b)(2) of the Act is provided in the paragraphs that follow.

Relationship of Critical Habitat to Habitat Conservation Plan Lands—Exclusions Under Section 4(b)(2) of the Act

We consider a current plan to provide adequate management or protection if it meets three criteria: (1) The plan is complete and provides the same or better level of protection from adverse modification or destruction than that provided through a consultation under section 7 of the Act; (2) there is a reasonable expectation that the conservation management strategies and actions will be implemented based on past practices, written guidance, or regulations; and (3) the plan provides conservation strategies and measures consistent with currently accepted principles of conservation biology. We believe that the following HCPs fulfill these criteria for *Acanthomintha ilicifolia*: the City of San Diego subarea plan, the County of San Diego subarea plan, the City of Poway subarea plan, the City of Chula Vista subarea plan under the San Diego MSCP, and the City of Carlsbad subarea plan under the San Diego MHCP. We are considering the exclusion of non-Federal lands covered by these plans that provide for the conservation of *A. ilicifolia* from the final designation of critical habitat pursuant to section 4(b)(2) of the Act.

We also consider HCP covered lands for exclusion under 4(b)(2) of the Act if the plans are approaching completion and, when completed, will meet the above criteria. We have proposed critical habitat in one subarea plan that has not yet been completed. The City of Encinitas completed a final draft subarea plan that was released for public review in 2001. This plan indicates that the City of Encinitas will complete the HCP process under the San Diego MHCP and implement the conservation measures outlined for *Acanthomintha ilicifolia*. However, it is our understanding that little progress has been made by the City of Encinitas to finalize their subarea plan since the 2001 release of the draft plan. Therefore, we are seeking public comment on our proposal to exclude 92 ac (37 ha) of non-Federal lands in Subunit 1C covered by the City of Encinitas subarea plan of the San Diego MHCP pursuant

to section 4(b)(2) of the Act (see Public Comments Solicited section above). Based on information received during the public comment period, the Secretary may determine that sufficient progress has not been made and that lands within the City of Encinitas' subarea plan should not be excluded from the final designation of critical habitat.

To aid in the public review of this proposed critical habitat, we are providing maps of the areas that we are proposing to exclude. Maps and GIS layers for areas proposed for exclusion are available from the Carlsbad Fish and Wildlife Office (see **ADDRESSES**) and on our website at *http://carlsbad.fws.gov/sdtm.htm*.

San Diego Multiple Habitat Conservation Program (MHCP)

We are proposing to exclude from the final critical habitat designation approximately 172 ac (70 ha) of non-Federal lands within the City of Carlsbad subarea plan and the City of Encinitas subarea plans of the San Diego MHCP under section 4(b)(2) of the Act. The San Diego MHCP includes the following subareas: City of Carlsbad, City of Encinitas, City of Escondido, City of Oceanside, City of San Marcos, and City of Vista. We are proposing to exclude 7 ac (3 ha) in Subunit 1A and 73 ac (29 ha) in Subunit 1B covered under the City of Carlsbad subarea plan, and 92 ac (37 ha) in Subunit 1C which will be covered under the City of Encinitas subarea plan. This exclusion pertains to all but 7ac (3 ha) of land proposed as critical habitat in Unit 1. Only the City of Carlsbad subarea plan is completed and legally operative; however the City of Encinitas completed a final draft subarea plan that was released for public review in 2001. Once in place, the City of San Marcos, City of Oceanside, City of Escondido, and City of Vista subarea plans will also provide for the conservation of *A. ilicifolia*; however, no critical habitat has been proposed within these cities. The City of Carlsbad and City of Encinitas subarea plans provide for special management and protection for the physical and biological features essential for the conservation of *A. ilicifolia* that exceed the level of regulatory control that would be afforded this species by the designation of critical habitat. We believe that the benefits of excluding proposed critical habitat covered by these HCPs from the critical habitat designation would outweigh the benefits of including them as critical habitat and that the exclusion under consideration would not result in the extinction of *A. ilicifolia*.

The San Diego MHCP is a comprehensive, multi-jurisdictional, planning program designed to create, manage, and monitor an ecosystem preserve in northwestern San Diego County. The San Diego MHCP is also a regional subarea plan under the State of California's Natural Communities Conservation Plan (NCCP) program and was developed in cooperation with California Department of Fish and Game (CDFG). The MHCP preserve system is intended to protect viable populations of native plant and animal species and their habitats in perpetuity, while accommodating continued economic development and quality of life for residents of northern San Diego County. The MHCP includes an approximately 112,000-ac (45,324-ha) study area within the cities of Carlsbad, Encinitas, Escondido, San Marcos, Oceanside, Vista and Solana Beach.

The 10(a)(1)(B) permit for the City of Carlsbad HMP was issued on November 9, 2004. *Acanthomintha ilicifolia* is a conditionally covered species under the HMP. "Conditional" coverage means that the City of Carlsbad receives take authorization under the Act for this species as long as they comply with the conservation measures outlined in the HMP. Under the MHCP, the majority of the known populations fall within Focused Planning Areas (FPA) (core areas and linkages important for conservation of sensitive species) and will be conserved at levels of 95 to 100 percent. Populations that fall outside of FPAs will be conserved at a minimum 80 percent level based on the Narrow Endemic Plant policy. The Narrow Endemic Policy requires the conservation of new populations of narrow endemic species (80 percent outside of FPAs) and mitigation for unavoidable impacts as well as management practices designed to achieve no net loss of narrow endemic populations. In addition, cities cannot permit more than 5 percent gross cumulative loss of narrow endemic populations or occupied acreage within the Focused Planning Areas and no more than 20 percent cumulative loss of narrow endemic locations, population numbers, or occupied acreage outside of Focused Planning Areas (AMEC Earth and Environmental, Inc. 2003). According to the MHCP, 91 percent of the major populations and critical locations of this species (as identified in the MHCP) in the study area will be conserved under the FPA design. In addition to conserved point localities, an estimated 3,403 acres of potentially suitable habitat will be conserved as a result of the existing preserve design and preserve policies.

The subarea plan for the City of Encinitas follows the same framework under the MHCP, allowing for similar conservation and management of known *A. ilicifolia* populations. Areas that contain features essential to the conservation of the species that fall within the boundaries of both the City of Carlsbad and the City of Encinitas subarea plans under the MHCP will be incorporated into the preserve areas, and provisions to manage the populations within the preserve areas will provide for the long-term conservation of the species.

Benefits of Exclusion Outweigh the Benefits of Inclusion

We expect the approved City of Carlsbad subarea plan and the City of Encinitas subarea plan, once approved, to provide substantial protection and management of the PCE essential to the conservation of *Acanthomintha ilicifolia* on lands in Subunit 1A (7 ac (3 ha)), Subunit 1B (73 ac (29 ha)), and Subunit 1C (92 ac (37 ha)). We expect the subarea plans to provide active management for *A. ilicifolia* on non-Federal lands in contrast to designation of critical habitat, which would only preclude their destruction or adverse modification. Moreover, the educational benefits that would result from critical habitat designation, including informing the public of areas that are necessary for the long-term conservation of the species, are already in place both as a result of material provided on our website and through public notice-and-comment procedures required to establish the MHCP and associated subarea plans.

In contrast to the lack of an appreciable benefit of including these lands as critical habitat, the exclusion of these lands from critical habitat will help preserve the partnerships that we have developed with the local jurisdictions and project proponents in the development of the MHCP and associated subarea plans. As discussed above, many landowners perceive critical habitat as an unfair and unnecessary regulatory burden given the expense and time involved in developing and implementing complex regional HCPs, such as the MHCP. For these reasons, we believe that designating critical habitat has little benefit in areas covered by subarea plans of the MHCP, and such minor benefit is outweighed by the benefits of maintaining partnerships with local jurisdictions and private landowners with lands covered by the MHCP.

We have reviewed and evaluated the benefits of inclusion and the benefits of exclusion of lands as critical habitat for *Acanthomintha ilicifolia*. Based on this evaluation, we find that the benefits of excluding lands in areas covered by the City of Carlsbad and City of Encinitas subarea plans of the MHCP outweigh the benefits of including those lands as critical habitat for *A. ilicifolia*.

Exclusion Will Not Result in Extinction of the Species

Exclusion of these 172 ac (70 ha) of non-Federal lands from the final designation of critical habitat would not result in the extinction of *Acanthomintha ilicifolia* because these lands will be permanently conserved and managed for the benefit of this species pursuant to the MHCP subarea plans. The jeopardy standard of section 7 and routine implementation of habitat protection through the section 7 process also provide assurances that the species will not go extinct. The protections afforded to *A. ilicifolia* under the jeopardy standard will remain in place for the areas proposed for exclusion from critical habitat.

San Diego Multiple Species Conservation Program (MSCP)

We are proposing to exclude from the final critical habitat designation approximately 1,130 ac (457 ha) of non-Federal lands within the City of San Diego subarea plan and the County of San Diego subarea plan of the San Diego MSCP under section 4(b)(2) of the Act. We propose to exclude 63 ac (25 ha) in Subunit 2A and 52 ac (22 ha) in Subunit 2B covered by the City of San Diego subarea plan, and 306 ac (124 ha) in Subunit 2C, 77 ac (31 ha) in Subunit 2D, 33 ac (13 ha) in Subunit 3A, 156 ac (63 ha) in Subunit 3B, 38 ac (15 ha) in Subunit 3C, 50 ac (20 ha) in Subunit 3D, 7 ac (3 ha) in Subunit 3F, 18 ac (7 ac) in Subunit 4A, 220 ac (89 ha) in Subunit 4B, 27 ac (11 ha) in Subunit 4C, and 84 ac (34 ha) in Subunit 4D covered by the County of San Diego subarea plan of the San Diego MSCP. *Acanthomintha ilicifolia* is a covered species under these two approved and legally operative subarea plans. The City of Poway and the City of Chula Vista have subarea plans that also provide for the conservation of *A. ilicifolia*; however, no critical habitat has been proposed within the City of Poway or the City of Chula Vista. These HCPs provide special management and protection for the physical and biological features essential for the conservation of *A. ilicifolia* that exceed the level of regulatory control that would be afforded this species by the designation of critical habitat. We believe that the benefits of excluding proposed critical habitat covered by these HCPs from the critical habitat designation would outweigh the benefits of including them as critical habitat and that the exclusion under consideration would not result in the extinction of *A. ilicifolia*.

In southwestern San Diego County, the MSCP effort encompasses more than 582,000 ac (236,000 ha) and anticipates the participation of 12 jurisdictions. Under the broad umbrella of the MSCP, each of the 12 participating jurisdictions prepares a subarea plan that implements the goals of the MSCP within that particular jurisdiction. Four of the 12 jurisdictions cover lands that support *Acanthomintha ilicifolia*. All four of these jurisdictions, the City of San Diego, the City of Chula Vista, the County of San Diego, and the City of Poway, have approved subarea plans. We conduct a consultation on each subarea plan and associated permit under section 7 of the Act to ensure they are not likely to result in jeopardy or adversely modify or destroy the designated critical habitat of any covered species. We also review the plans under Section 10 of the Act to ensure they meet the criteria for issuance of an incidental take permit and are consistent with the terms and goals of the MSCP. We completed these analyses for the City of San Diego, the City of Chula Vista, the County of San Diego, and the City of Poway subarea plans prior to issuing incidental take permits to the jurisdictions.

The regional MSCP is also a regional subarea plan under the State of California's Natural Communities Conservation Plan (NCCP) program and was developed in cooperation with California Department of Fish and Game (CDFG). Over the 50-year term of the City and County permits, the MSCP provides for the establishment of approximately 171,000 ac (69,573 ha) of preserve lands within the Multi-Habitat Planning Area (MHPA) (City of San Diego) and Pre-Approved Mitigation Areas (PAMA) (County of San Diego) to benefit the 85 federally listed and sensitive species, including *Acanthomintha ilicifolia*, covered under the plan. Private lands within the MHPA and PAMA lands are subject to special restrictions on development and, as they are committed to the preserve, must be legally protected and permanently managed to conserve the covered species. Public lands owned by the City and County and by the State of California and Federal government that are identified for conservation under the MSCP must also be protected and permanently managed to protect the covered species. The MSCP requires the City and County to develop broad framework and site-specific management plans, subject to the review and approval of the Service and CDFG, to guide the management of all preserve lands under City and County control. The plans incorporate requirements to monitor and adaptively manage *A. ilicifolia* habitats over time. Under the MSCP, the State and Federal governments have also committed to provide similar management for their preserve lands.

As discussed above, each take authorization holder must prepare a framework management plan. The framework management plan provides general direction for all preserve management issues within the subarea plan's boundaries. Area-specific management directives are developed for managing lands that are conserved as part of the reserves. The framework and area-specific management plans are comprehensive and address a broad range of management needs at the preserve and species levels. These plans include the following: (1) Fire management; (2) public access control; (3) fencing and gates; (4) ranger patrol; (5) trail maintenance; (6) visitor/interpretive and volunteer services; (7) hydrological management; (8) signage and lighting; (9) trash and litter removal; (10) access road maintenance; (11) enforcement of property and/or homeowner requirements; (12) removal of invasive species; (13) nonnative predator control; (14) species monitoring; (15) habitat restoration; (16) management for diverse age classes; (17) use of herbicides and rodenticides; (18) biological surveys; (19) research; and (20) species management conditions (Final MSCP Plan 1998). These management measures benefit *Acanthomintha ilicifolia* and reduce the threats to this species. The MSCP also provides for a biological monitoring program for *A. ilicifolia* (Final MSCP Plan 1998). The City of San Diego monitors *A. ilicifolia* on an annual basis (City of San Diego 2000; 2001; 2003; 2004; and 2005). Moreover, the rare plant monitoring under the MSCP is being evaluated and updated with the assistance of the U.S. Geological Survey Biological Research Division and a three-member, independent, scientific advisory group.

In addition to the restrictions on development and conservation obligations that apply within the Multiple Habitat Planning Area (MHPA) and Pre-Approved Mitigation Area (PAMA), the MSCP incorporates processes to protect sensitive species of limited distribution, including

Acanthomintha ilicifolia, within the plan area. Under the City of San Diego's subarea plan, impacts to narrow endemic species inside the MHPA will be avoided and outside the MHPA will be protected as appropriate by (1) avoidance, (2) management, (3) enhancement, and/or (4) transplantation to areas identified for preservation. Under the County of San Diego's subarea plan, narrow endemic plants, including *A. ilicifolia*, would be conserved under their Biological Mitigation Ordinance using a process that (1) requires avoidance to the maximum extent feasible, (2) allows for a maximum 20 percent encroachment into a population if total avoidance is not feasible, and (3) requires mitigation at the 1:1 to 3:1 (in kind) for impacts if avoidance and minimization of impacts would result in no reasonable use of the property. Thus, these processes to protect narrow endemic plants, including *A. ilicifolia*, whether located on lands targeted for preserve status within the MHPA and PAMA or located outside of those areas, ensure these limited distribution species are protected wherever they occur. Considered as a whole, the protection and management of *A. ilicifolia* provided under the City and County subarea plans will ensure the permanent conservation of this species and its habitat within the areas covered by the plans.

We therefore propose to exclude from the final critical habitat designation all of Unit 2 and Unit 4 and the non-Federal portion of Unit 3 under section 4(b)(2) of the Act because these lands are covered by the City of San Diego and the County of San Diego subarea plans. Populations of *Acanthomintha ilicifolia* that occur within these subarea plan areas will be conserved and will be managed and monitored pursuant to the MSCP. The framework and area-specific management plans will provide management and monitoring of *A. ilicifolia*.

Benefits of Exclusion Outweigh the Benefits of Inclusion

We expect the City of San Diego and the County of San Diego subarea plans to provide substantial protection and management of habitat that contains features essential to the conservation of *Acanthomintha ilicifolia* in areas covered by these plans. We expect these subarea plans to provide active management for *A. ilicifolia* on non-Federal lands in contrast to designation of critical habitat, which would only preclude their destruction or adverse modification. Moreover, the educational benefits that would result from critical habitat designation, including informing the public of areas that are necessary for the long-term conservation of the subspecies, are already in place both as a result of material provided on our Web site and through public notice-and-comment procedures required to establish the MSCP and specific subarea plans.

In contrast to the lack of an appreciable benefit of including these lands as critical habitat, the exclusion of these lands from critical habitat will help preserve the partnerships that we have developed with the local jurisdictions and project proponents in the development of the MSCP. As discussed above, many landowners perceive critical habitat as an unfair and unnecessary regulatory burden given the expense and time involved in developing and implementing complex regional HCPs, such as the MSCP. For these reasons, we believe that designating critical habitat has little benefit in areas covered by the MSCP subarea plans, and such minor benefit is outweighed by the benefits of maintaining partnerships with local jurisdictions and private landowners with lands covered by the MSCP.

We have reviewed and evaluated the benefits of inclusion and the benefits of exclusion of lands as critical habitat for *Acanthomintha ilicifolia*. Based on this evaluation, we find that the benefits of excluding lands in the planning area for the City of San Diego and the County of San Diego subarea plans outweigh the benefits of including those lands as critical habitat for *A. ilicifolia*.

Exclusion Will Not Result in Extinction of the Species

Exclusion of these 1,130 ac (457 ha) of non-Federal lands from the final designation of critical habitat will not result in the extinction of *Acanthomintha ilicifolia* because these lands, determined to contain features essential to the conservation of the species, will be permanently conserved and managed for the benefit of this species pursuant to the approved MSCP subarea plans. The jeopardy standard of section 7 and routine implementation of habitat protection through the section 7 process also provide assurances that the species will not go extinct. The protections afforded to *A. ilicifolia* under the jeopardy standard will remain in place for the areas proposed for exclusion from critical habitat.

Economic Analysis

An analysis of the economic impacts of proposing critical habitat for *Acanthomintha ilicifolia* is being prepared. We will announce the availability of the draft economic analysis as soon as it is completed, at which time we will seek public review and comment. At that time, copies of the draft economic analysis will be available for downloading from the Internet at *http://www.fws.gov/carlsbad/* or by contacting the Carlsbad Fish and Wildlife Office directly (see **ADDRESSES** section). Based on public comments, the proposed designation itself, and the information in the full economic analysis, areas in addition to those proposed for exclusion in this proposed rule may be excluded from final critical habitat by the Secretary under the provisions of section 4(b)(2) of the Act. This is provided for in the Act and in our implementing regulations at 50 CFR 424.19.

Peer Review

In accordance with our joint policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of such review is to ensure that our critical habitat designation is based on scientifically sound data, assumptions, and analyses. We will send these peer reviewers copies of this proposed rule immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed designation of critical habitat.

We will consider all comments and information received during the comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposal.

Public Hearings

The Act provides for one or more public hearings on this proposal, if requested. Requests for public hearings must be made in writing at least 15 days prior to the close of the public comment period (see **DATES** section). We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings in the **Federal Register** and local newspapers at least 15 days prior to the first hearing.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations and notices that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements

in the proposed rule clearly stated? (2) Does the proposed rule contain technical jargon that interferes with the clarity? (3) Does the format of the proposed rule (grouping and order of the sections, use of headings, paragraphing, and so forth) aid or reduce its clarity? (4) Is the description of the notice in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? (5) What else could we do to make this proposed rule easier to understand?

Send a copy of any comments on how we could make this proposed rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may e-mail your comments to this address: *Exsec@ios.doi.gov.*

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule in that it may raise novel legal and policy issues, but it is not anticipated to have an annual effect on the economy of $100 million or more or affect the economy in a material way. Due to the tight timeline for publication in the **Federal Register**, the Office of Management and Budget (OMB) has not formally reviewed this rule. We are preparing a draft economic analysis of this proposed action, which will be available for public comment, to determine the economic consequences of designating the specific area as critical habitat. This economic analysis also will be used to determine compliance with Executive Order 12866, Regulatory Flexibility Act, Small Business Regulatory Enforcement Fairness Act, and Executive Order 12630.

Further, Executive Order 12866 directs Federal Agencies promulgating regulations to evaluate regulatory alternatives (Office of Management and Budget, Circular A–4, September 17, 2003). Pursuant to Circular A–4, once it has been determined that the Federal regulatory action is appropriate, then the agency will need to consider alternative regulatory approaches. Since the determination of critical habitat is a statutory requirement pursuant to the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), we must then evaluate alternative regulatory approaches, where feasible, when promulgating a designation of critical habitat.

In developing our designations of critical habitat, we consider economic impacts, impacts to national security, and other relevant impacts pursuant to section 4(b)(2) of the Act. Based on the discretion allowable under this provision, we may exclude any particular area from the designation of critical habitat providing that the benefits of such exclusion outweigh the benefits of specifying the area as critical habitat and that such exclusion would not result in the extinction of the subspecies. As such, we believe that the evaluation of the inclusion or exclusion of particular areas, or combination thereof, in a designation constitutes our regulatory alternative analysis.

The availability of the draft economic analysis will be announced in the **Federal Register** and in local newspapers so that it is available for public review and comments. The draft economic analysis can be obtained from the Internet Web site at *http://www.fws.gov/carlsbad/* or by contacting the Carlsbad Fish and Wildlife Office directly (see **ADDRESSES** section).

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act (RFA) to require Federal agencies to provide a statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

At this time, the Service lacks the available economic information necessary to provide an adequate factual basis for the required RFA finding. Therefore, the RFA finding is deferred until completion of the draft economic analysis prepared under section 4(b)(2) of the Act and Executive Order 12866. This draft economic analysis will provide the required factual basis for the RFA finding. Upon completion of the draft economic analysis, the Service will publish a notice of availability of the draft economic analysis of the proposed designation and reopen the public comment period for the proposed designation. The Service will include with the notice of availability, as appropriate, an initial regulatory flexibility analysis or a certification that the rule will not have a significant economic impact on a substantial number of small entities accompanied by the factual basis for that determination. The Service has concluded that deferring the RFA finding until completion of the draft economic analysis is necessary to meet the purposes and requirements of the RFA. Deferring the RFA finding in this manner will ensure that the Service makes a sufficiently informed determination based on adequate economic information and provides the necessary opportunity for public comment.

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (E.O. 13211; Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this proposed rule to designate critical habitat for *Acanthomintha ilicifolia* is a significant regulatory action under Executive Order 12866, in that it may raise novel legal and policy issues, it is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501), the Service makes the following findings:

(a) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute or regulation that would impose an enforceable duty upon State, local, Tribal governments, or the private sector and includes both "Federal intergovernmental mandates" and "Federal private sector mandates." These terms are defined in 2 U.S.C. 658(5)–(7). "Federal intergovernmental mandate" includes a regulation that "would impose an enforceable duty upon State, local, or Tribal governments" with two exceptions. It excludes "a condition of Federal assistance." It also excludes "a duty arising from participation in a voluntary Federal program," unless the regulation "relates to a then-existing Federal program under which $500,000,000 or

more is provided annually to State, local, and Tribal governments under entitlement authority," if the provision would "increase the stringency of conditions of assistance" or "place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding," and the State, local, or Tribal governments "lack authority" to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; AFDC work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. "Federal private sector mandate" includes a regulation that "would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program."

The designation of critical habitat does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply; nor would critical habitat shift the costs of the large entitlement programs listed above on to State governments.

(b) We do not believe that this rule will significantly or uniquely affect small governments because 91 percent of the lands being proposed for final designation are managed by Federal agencies and do not fit the definition of "small governmental jurisdiction." As such, a Small Government Agency Plan is not required. We will, however, further evaluate this issue as we conduct our economic analysis and revise this assessment if appropriate.

Takings

In accordance with Executive Order 12630 ("Government Actions and Interference with Constitutionally Protected Private Property Rights"), we have analyzed the potential takings implications of designating critical habitat for *Acanthomintha ilicifolia* in a takings implications assessment. The takings implications assessment concludes that this designation of critical habitat for the *A. ilicifolia* does not pose significant takings implications.

Federalism

In accordance with Executive Order 13132 (Federalism), the rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of, this proposed critical habitat designation with appropriate State resource agencies in California. The designation of critical habitat in areas currently occupied by *Acanthomintha ilicifolia* imposes no additional restrictions to those currently in place and, therefore, has little incremental impact on State and local governments and their activities. The designation may have some benefit to these governments in that the areas that contain the features essential to the conservation of the species are more clearly defined, and the primary constituent elements of the habitat necessary to the conservation of the species are specifically identified. While making this definition and identification does not alter where and what federally sponsored activities may occur, it may assist these local governments in long-range planning (rather than waiting for case-by-case section 7 consultations to occur).

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We have proposed designating critical habitat in accordance with the provisions of the Act. This proposed rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of *Acanthomintha ilicifolia*.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act. This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

It is our position that, outside the jurisdiction of the Tenth Federal Circuit Court, we do not need to prepare environmental analyses as defined by the NEPA in connection with designating critical habitat under the Endangered Species Act of 1973, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This assertion was upheld in the courts of the Ninth Circuit (*Douglas County* v. *Babbitt*, 48 F.3d 1495 (9th Cir. Ore. 1995), cert. denied 116 S. Ct. 698 (1996).]

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and the Department of Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. We have determined that there are no Tribal lands that were occupied at the time of listing that contain features essential for the conservation of *Acanthomintha ilicifolia* and no Tribal lands essential for the conservation of *A. ilicifolia*. Therefore, critical habitat for *A. ilicifolia* has not been proposed on Tribal lands.

References Cited

A complete list of all references cited in this rulemaking is available upon request from the Field Supervisor, Carlsbad Fish and Wildlife Office (see **ADDRESSES** section).

Author(s)

The primary author of this package is the Carlsbad Fish and Wildlife Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. In § 17.12(h), revise the entry for "*Acanthomintha ilicifolia*" under "FLOWERING PLANTS" to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*	*	*
Acanthomintha ilicifolia.	San Diego thornmint	U.S.A. (CA), Mexico	Lamiaceae	T	649	17.96(a)	NA
*	*	*	*	*	*	*	*

3. Amend § 17.96(a) by adding an entry for "Acanthomintha ilicifolia (San Diego thornmint)" in alphabetical order under family Lamiaceae, to read as follows:

§ 17.96 Critical habitat—plants..

(a) *Flowering plants.*

* * * * *

Family Lamiaceae: *Acanthomintha ilicifolia* (San Diego thornmint)

(1) Critical habitat units are depicted for San Diego County, California, on the maps below.

(2) The primary constituent element of critical habitat for Acanthomintha ilicifolia is clay lenses that provide substrate for seedling establishment and space for growth and development of *Acanthomintha ilicifolia, that are:*

(i) Within chaparral and coastal sage scrub;

(ii) On gentle slopes ranging from 0 to 25 degrees;

(iii) Derived from gabbro and soft calcareous sandstone substrates with a loose, crumbly structure and deep (approximately 2 feet (60 cm)) fissures; and

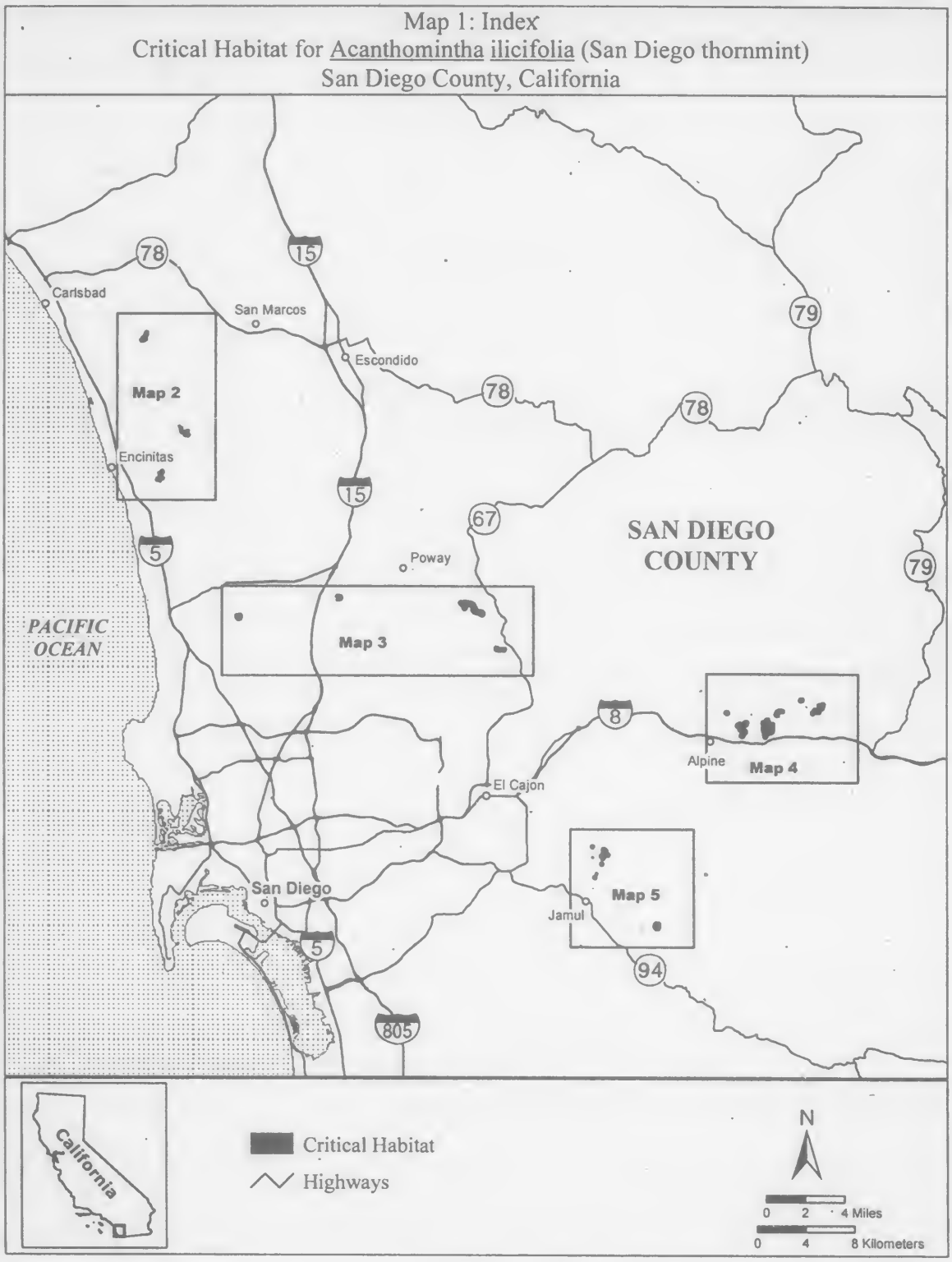
(iv) Characterized by a low density of forbs and geophytes, and a low density or absence of shrubs.

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, airports, and roads) and the land on which such structures are located existing on the effective date of this rule.

(4) Data layers defining map units were created on a base of USGS 1:24,000 maps, and critical habitat units were then mapped using Universal Transverse Mercator (UTM) coordinates.

(5) Note: Index map for *Acanthomintha ilicifolia* (Map 1) follows:

BILLING CODE 4310–55–P



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(6) Unit 1: San Diego County, California. From USGS 1:24,000 quadrangle maps Encinitas, Rancho Santa Fe, and San Luis Rey.

(i) Subunit 1A. Land bounded by the following UTM NAD27 coordinates (E,N): 475096, 3665684; 475097, 3665687; 475098, 3665697; 475100, 3665707; 475103, 3665716; 475107, 3665725; 475111, 3665735; 475114, 3665741; 475123, 3665756; 475124, 3665759; 475129, 3665767; 475135, 3665775; 475142, 3665783; 475148, 3665790; 475156, 3665797; 475161, 3665801; 475175, 3665813; 475178, 3665815; 475186, 3665821; 475195, 3665826; 475203, 3665831; 475212, 3665835; 475215, 3665836; 475216, 3665844; 475216, 3665854; 475218, 3665864; 475220, 3665873; 475223, 3665883; 475227, 3665892; 475231, 3665901; 475236, 3665910; 475241, 3665919; 475247, 3665927; 475253, 3665934; 475260, 3665942; 475267, 3665948; 475286, 3665965; 475286, 3665965; 475294, 3665972; 475302, 3665977; 475310, 3665983; 475319, 3665987; 475328, 3665991; 475337, 3665995; 475338, 3665995; 475372, 3666006; 475381, 3666009; 475390, 3666011; 475400, 3666013; 475410, 3666014; 475420, 3666014; 475430, 3666014; 475440, 3666013; 475450, 3666011; 475452, 3666011; 475478, 3666005; 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(ii) Subunit 1B. Land bounded by the following UTM NAD27 coordinates (E,N): 478577, 3658061; 478502, 3658045; 478459, 3658073; 478427, 3658140; 478414, 3658174; 478412, 3658184; 478404, 3658287; 478398, 3658413; 478379, 3658480; 478359, 3658505; 478318, 3658541; 478295, 3658577; 478287, 3658598; 478293, 3658651; 478292, 3658653; 478293, 3658655; 478304, 3658664; 478362, 3658678; 478421, 3658675; 478419, 3658657; 478490, 3658561; 478577, 3658547; 478607, 3658546; 478607, 3658545; 478607, 3658544; 478622, 3658547; 478643, 3658450; 478613, 3658445; 478558, 3658434; 478496, 3658417; 478433, 3658380; 478425, 3658352; 478433, 3658312; 478462, 3658276; 478495, 3658238; 478496, 3658193; 478517, 3658165; 478539, 3658153; 478570, 3658154; 478610, 3658193; 478653, 3658233; 478687, 3658246; 478725, 3658269; 478751, 3658293; 478780, 3658310; 478814, 3658329; 478872, 3658327; 478909, 3658307; 478983, 3658336; 479014, 3658346; 479049, 3658356; 479090, 3658352; 479135, 3658332; 479149, 3658331; 479153, 3658322; 479162, 3658278; 479162, 3658253; 479153, 3658203; 479145, 3658182; 478916, 3658114; 478847, 3658113; 478797, 3658086; 478775, 3658055; 478783, 3658021; 478835, 3657960; 478913, 3657958; 478951, 3657952; 479038, 3657957; 479174, 3658048; 479210, 3658055; 479218, 3658005; 479227, 3657890; 479221, 3657887; 479175, 3657833; 479114, 3657784; 479078, 3657769; 479078, 3657768; 479069, 3657770; 479059, 3657773; 479050, 3657776; 479041, 3657780; 479032, 3657785; 479024, 3657790; 479016, 3657796; 479008, 3657802; 479001, 3657809; 478995, 3657815; 478995, 3657815; 478993, 3657813; 478990, 3657812; 478988, 3657810; 478985, 3657808; 478983, 3657807; 478980, 3657805; 478978, 3657804; 478975, 3657802; 478973, 3657801; 478970, 3657800; 478968, 3657799; 478965, 3657797; 478962, 3657796; 478960, 3657795; 478957, 3657794; 478954, 3657793; 478951, 3657792; 478949, 3657791; 478946, 3657790; 478943, 3657790; 478940, 3657789; 478937, 3657788; 478935, 3657787; 478932, 3657787; 478929, 3657786; 478926, 3657786; 478923, 3657786; 478920, 3657785; 478917, 3657785; 478915, 3657785; 478912, 3657784; 478909, 3657784; 478906, 3657784; 478903, 3657784; 478900, 3657784; 478897, 3657784; 478894, 3657784; 478891, 3657785; 478888, 3657785; 478886, 3657785; 478883, 3657786; 478880, 3657786; 478877, 3657786; 478874, 3657787; 478871, 3657787; 478868, 3657788; 478866, 3657789; 478863, 3657790; 478861, 3657790; 478839, 3657880; 478789, 3657835; 478788, 3657836; 478786, 3657835; 478783, 3657834; 478780, 3657833; 478777, 3657833; 478775, 3657832; 478772, 3657831; 478769, 3657831; 478766, 3657830; 478763, 3657829; 478760, 3657829; 478757, 3657829; 478755, 3657828; 478752, 3657828; 478749, 3657828; 478746, 3657827; 478743, 3657827; 478740, 3657827; 478737, 3657827; 478734, 3657827; 478731, 3657827; 478728, 3657827; 478726, 3657828; 478723, 3657828; 478720, 3657828; 478717, 3657829; 478714, 3657829; 478679, 3657945; 478657, 3658051; 478657, 3658070; 478599, 3658060; 478577, 3658061.

(iii) Subunit 1C. Land bounded by the following UTM NAD27 coordinates (E,N): 476907, 3654254; 476907, 3654250; 476907, 3654240; 476906, 3654238; 476883, 3654238; 476860, 3654220; 476860, 3654195; 476892, 3654171; 476889, 3654164; 476885, 3654155; 476882, 3654150; 476881, 3654148; 476867, 3654148; 476850, 3654104; 476850, 3654102; 476848, 3654099; 476841, 3654092; 476834, 3654086; 476824, 3654076; 476823, 3654076; 476815, 3654069; 476807, 3654063; 476803, 3654061; 476791, 3654053; 476787, 3654051; 476783, 3654049; 476783, 3654056; 476783, 3654075; 476777, 3654098; 476756, 3654100; 476732, 3654111; 476726, 3654119; 476730, 3654144; 476743, 3654174; 476760, 3654207; 476781, 3654239; 476810, 3654262; 476819, 3654295; 476814, 3654339; 476789, 3654350; 476753, 3654337; 476753, 3654314; 476730, 3654283; 476699, 3654259; 476670, 3654230; 476667, 3654190; 476649, 3654157; 476623, 3654152; 476579, 3654152; 476539, 3654155; 476491, 3654153; 476468, 3654148; 476467, 3654151; 476463, 3654160; 476462, 3654162; 476457, 3654175; 476454, 3654182; 476451, 3654192; 476449, 3654200; 476446, 3654214; 476446, 3654215; 476445, 3654222; 476510, 3654211; 476554, 3654209; 476581, 3654228; 476586, 3654259; 476577, 3654287; 476519, 3654289; 476485, 3654306; 476451, 3654315; 476452, 3654320; 476457, 3654334; 476457, 3654335; 476461, 3654344; 476465, 3654353; 476467, 3654358; 476474, 3654370; 476476, 3654374; 476481, 3654383; 476487, 3654391; 476488, 3654392; 476497, 3654403; 476502, 3654409; 476509, 3654417; 476515, 3654423; 476519, 3654426; 476609, 3654448; 476623, 3654488; 476612, 3654894; 476622, 3654895; 476626, 3654895; 476636, 3654894; 476646, 3654893; 476648, 3654893; 476662, 3654891; 476670, 3654890; 476680, 3654888; 476688, 3654885; 476701, 3654881; 476702, 3654880; 476712, 3654877; 476721, 3654873; 476726, 3654870; 476738, 3654864; 476742, 3654861; 476750, 3654856; 476753, 3654854; 476753, 3654854; 476756, 3654856; 476758, 3654857; 476761, 3654858; 476764, 3654860; 476766, 3654861; 476769, 3654862; 476772, 3654863; 476774, 3654864; 476777, 3654865; 476780, 3654866; 476783, 3654867; 476785, 3654868; 476788, 3654868; 476787, 3654872; 476787, 3654882; 476787, 3654892; 476788, 3654901; 476790, 3654911; 476792, 3654921; 476795, 3654931; 476797, 3654935; 476798, 3654942; 476800, 3654952; 476803, 3654961; 476807, 3654971; 476811, 3654980; 476815, 3654989; 476821, 3654997; 476826, 3655005; 476833, 3655013; 476840, 3655020; 476847, 3655027; 476855, 3655033; 476863, 3655039; 476871, 3655044; 476880, 3655049; 476889, 3655053; 476893, 3655055; 476901, 3655058; 476906, 3655060; 476916, 3655063; 476926, 3655065; 476935, 3655067; 476945, 3655067; 476955, 3655068; 476965,

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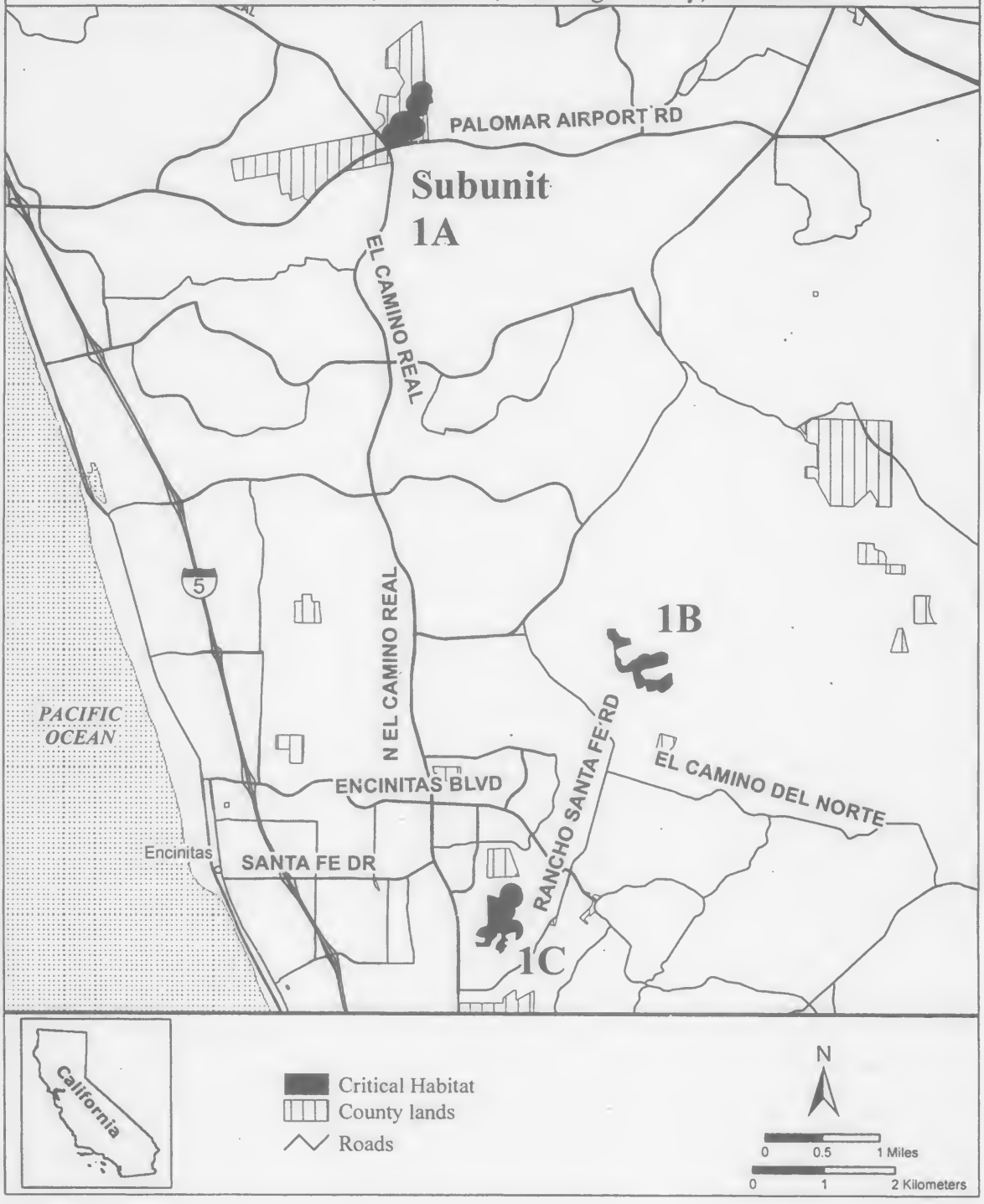
(iv) Note: Map of Unit 1, subunits 1A, 1B, and 1C (Map 2), follows:

BILLING CODE 4310–55–P

Map 2
Critical Habitat for Acanthomintha ilicifolia (San Diego thornmint)
Unit 1: Subunits 1A, 1B and 1C, San Diego County, California



BILLING CODE 4310–55–C

(7) Unit 2: San Diego County, California. From USGS 1:24,000 quadrangle maps Del Mar, Poway, and San Vicente Reservoir.

(i) Subunit 2A. Land bounded by the following UTM NAD27 coordinates (E,N): 483318, 3643315; 483328, 3643314; 483335, 3643313; 483349, 3643310; 483352, 3643310; 483362, 3643307; 483372, 3643304; 483381, 3643301; 483390, 3643297; 483395, 3643294; 483399, 3643292; 483402, 3643290; 483411, 3643285; 483419, 3643279; 483425, 3643274; 483438, 3643264; 483439, 3643262; 483447, 3643255; 483454, 3643248; 483460, 3643240; 483466, 3643232; 483466, 3643232; 483474, 3643220; 483479, 3643212; 483481, 3643208; 483489, 3643192; 483492, 3643188; 483496, 3643179; 483499, 3643171; 483504, 3643156; 483508, 3643147; 483510, 3643139; 483513, 3643130; 483515, 3643120; 483516, 3643120; 483519, 3643103; 483520, 3643093; 483521, 3643083; 483522, 3643073; 483522, 3643070; 483522, 3643058; 483521, 3643052; 483520, 3643042; 483519, 3643032; 483518, 3643030; 483515, 3643014; 483513, 3643006; 483510, 3642997; 483507, 3642987; 483506, 3642986; 483496, 3642962; 483492, 3642954; 483490, 3642949; 483487, 3642943; 483485, 3642939; 483476, 3642922; 483473, 3642917; 483472, 3642914; 483465, 3642904; 483462, 3642898; 483459, 3642895; 483456, 3642890; 483450, 3642882; 483450, 3642881; 483448, 3642878; 483447, 3642875; 483446, 3642873; 483444, 3642870; 483443, 3642868; 483441, 3642865; 483440, 3642863; 483438, 3642860; 483436, 3642858; 483435, 3642856; 483433, 3642853; 483431, 3642851; 483429, 3642849; 483427, 3642847; 483426, 3642845; 483423, 3642840; 483416, 3642833; 483415, 3642831; 483408, 3642823; 483402, 3642817; 483395, 3642810; 483390, 3642806; 483383, 3642800; 483380, 3642798; 483371, 3642792; 483363, 3642787; 483355, 3642783; 483336, 3642773; 483335, 3642772; 483326, 3642768; 483317, 3642765; 483307, 3642762; 483297, 3642760; 483288, 3642758; 483278, 3642757; 483273, 3642757; 483255, 3642756; 483249, 3642756; 483249, 3642756; 483235, 3642756; 483225, 3642756; 483215, 3642757; 483206, 3642759; 483202, 3642760; 483191, 3642762; 483186, 3642763; 483181, 3642764; 483172, 3642766; 483164, 3642768; 483150, 3642773; 483148, 3642773; 483139, 3642777; 483130, 3642781; 483121, 3642786; 483112, 3642791; 483110, 3642792; 483101, 3642799; 483095, 3642803; 483087, 3642809; 483082, 3642815; 483073, 3642824; 483072, 3642824; 483070, 3642826; 483061, 3642835; 483060, 3642836; 483053, 3642843; 483051, 3642846; 483042, 3642856; 483038, 3642861; 483032, 3642869; 483030, 3642872; 483021, 3642887; 483018, 3642893; 483015, 3642898; 483011, 3642904; 483009, 3642908; 483005, 3642917; 483003, 3642923; 483002, 3642924; 482998, 3642931; 482993, 3642939; 482992, 3642940; 482987, 3642948; 482983, 3642954; 482980, 3642959; 482979, 3642961; 482974, 3642970; 482970, 3642979; 482968, 3642983; 482963, 3642998; 482961, 3643001; 482960, 3643006; 482957, 3643012; 482955, 3643018; 482954, 3643020; 482952, 3643025; 482948, 3643036; 482946, 3643040; 482944, 3643049; 482942, 3643057; 482942, 3643057; 482941, 3643058; 482938, 3643068; 482936, 3643078; 482935, 3643087; 482934, 3643097; 482933, 3643107; 482933, 3643110; 482933, 3643120; 482934, 3643127; 482935, 3643137; 482936, 3643147; 482938, 3643156; 482940, 3643161; 482940, 3643162; 482943, 3643171; 482946, 3643181; 482950, 3643190; 482955, 3643199; 482960, 3643207; 482966, 3643215; 482973, 3643223; 482975, 3643226; 482980, 3643231; 482984, 3643235; 482991, 3643242; 482995, 3643245; 482999, 3643248; 483002, 3643251; 483011, 3643257; 483019, 3643262; 483028, 3643267; 483037, 3643271; 483046, 3643274; 483056, 3643277; 483066, 3643280; 483075, 3643281; 483085, 3643282; 483091, 3643283; 483091, 3643283; 483101, 3643283; 483111, 3643283; 483121, 3643282; 483131, 3643280; 483138, 3643278; 483146, 3643277; 483149, 3643276; 483149, 3643276; 483151, 3643277; 483159, 3643282; 483168, 3643286; 483177, 3643291; 483179, 3643291; 483191, 3643296; 483198, 3643300; 483202, 3643301; 483211, 3643305; 483221, 3643308; 483231, 3643310; 483241, 3643311; 483245, 3643312; 483256, 3643313; 483261, 3643314; 483271, 3643314; 483273, 3643314; 483275, 3643314; 483275, 3643314; 483282, 3643314; 483289, 3643315; 483305, 3643315; 483308, 3643315; 483318, 3643315.

(ii) Subunit 2B. Land bounded by the following UTM NAD27 coordinates (E,N): 491618, 3644807; 491626, 3644807; 491658, 3644786; 491660, 3644784; 491662, 3644782; 491668, 3644775; 491675, 3644768; 491681, 3644760; 491687, 3644752; 491692, 3644744; 491697, 3644735; 491701, 3644726; 491702, 3644724; 491712, 3644699; 491715, 3644692; 491718, 3644682; 491718, 3644680; 491719, 3644676; 491722, 3644667; 491724, 3644658; 491725, 3644657; 491726, 3644651; 491729, 3644642; 491730, 3644632; 491731, 3644622; 491731, 3644612; 491731, 3644602; 491730, 3644592; 491729, 3644582; 491728, 3644578; 491727, 3644575; 491726, 3644571; 491725, 3644566; 491724, 3644565; 491721, 3644555; 491719, 3644548; 491716, 3644541; 491713, 3644534; 491709, 3644524; 491705, 3644516; 491699, 3644507; 491694, 3644499; 491687, 3644491; 491687, 3644491; 491679, 3644482; 491672, 3644475; 491665, 3644468; 491657, 3644462; 491653, 3644459; 491647, 3644454; 491643, 3644451; 491634, 3644446; 491625, 3644441; 491623, 3644440; 491606, 3644432; 491600, 3644429; 491590, 3644426; 491587, 3644425; 491574, 3644421; 491568, 3644419; 491558, 3644417; 491550, 3644415; 491531, 3644412; 491529, 3644412; 491523, 3644412; 491502, 3644409; 491497, 3644409; 491496, 3644409; 491493, 3644409; 491487, 3644404; 491479, 3644399; 491475, 3644397; 491462, 3644390; 491457, 3644387; 491453, 3644386; 491444, 3644381; 491439, 3644379; 491429, 3644376; 491420, 3644373; 491410, 3644370; 491405, 3644370; 491399, 3644369; 491394, 3644368; 491384, 3644367; 491374, 3644366; 491372, 3644366; 491357, 3644367; 491348, 3644367; 491338, 3644368; 491331, 3644369; 491323, 3644371; 491321, 3644371; 491311, 3644373; 491301, 3644376; 491297, 3644378; 491287, 3644381; 491282, 3644383; 491273, 3644388; 491265, 3644391; 491260, 3644394; 491258, 3644395; 491250, 3644401; 491242, 3644406; 491234, 3644413; 491227, 3644420; 491225, 3644421; 491216, 3644431; 491214, 3644433; 491244, 3644474; 491289, 3644507; 491289, 3644561; 491293, 3644602; 491223, 3644651; 491174, 3644695; 491174, 3644697; 491174, 3644700; 491174, 3644703; 491175, 3644706; 491175, 3644709; 491176, 3644712; 491176, 3644714; 491177, 3644717; 491177, 3644720; 491178, 3644723; 491179, 3644726; 491180, 3644729; 491181, 3644731; 491181, 3644734; 491182, 3644737; 491183, 3644739; 491185, 3644742; 491186, 3644745; 491187, 3644747; 491188, 3644750; 491189, 3644753; 491191, 3644755; 491192, 3644758; 491194, 3644760; 491195, 3644763; 491197, 3644765; 491198, 3644768; 491200, 3644770; 491201, 3644773; 491203, 3644775; 491205, 3644777; 491207, 3644780; 491208, 3644782; 491210, 3644784; 491211, 3644785; 491220, 3644803; 491221, 3644805; 491226, 3644814; 491231, 3644823; 491237,

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(iii) Subunit 2C. 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(iv) Subunit 2D. Land bounded by the following UTM NAD27 coordinates (E,N): 504291, 3640664; 504292, 3640667; 504360, 3640637; 504432, 3640633; 504488, 3640633; 504526, 3640599; 504586, 3640595; 504647, 3640580; 504711, 3640535; 504745, 3640542; 504821, 3640565; 504866, 3640542; 504987, 3640546; 505135, 3640580; 505138, 3640574; 505142, 3640566; 505148, 3640550; 505149, 3640550; 505152, 3640540; 505155, 3640531; 505157, 3640521; 505157, 3640521; 505161, 3640516; 505166, 3640508; 505170, 3640499; 505176, 3640487; 505177, 3640487; 505181, 3640478; 505184, 3640468; 505187, 3640459; 505189, 3640449; 505191, 3640439; 505192, 3640429; 505192, 3640419; 505192, 3640419; 505192, 3640406; 505192, 3640396; 505191, 3640386; 505189, 3640376; 505187, 3640366; 505185, 3640357; 505181, 3640346; 505181, 3640346; 505177, 3640336; 505173, 3640327; 505168, 3640319; 505163, 3640310; 505157, 3640302; 505151, 3640294; 505144, 3640287; 505137, 3640280; 505129, 3640274; 505121, 3640268; 505112, 3640263; 505104, 3640258; 505090, 3640251; 505089, 3640251; 505080, 3640247; 505071, 3640243; 505061, 3640240; 505051, 3640238; 505042, 3640236; 505032, 3640235; 505031, 3640235; 505012, 3640234; 505003, 3640234; 504993, 3640234; 504983, 3640235; 504973, 3640237; 504967, 3640238; 504962, 3640237; 504958, 3640236; 504948, 3640235; 504938, 3640234; 504928, 3640233; 504918, 3640234; 504908, 3640235; 504898, 3640236; 504898, 3640236; 504886, 3640239; 504876, 3640241; 504867, 3640244; 504857, 3640247; 504848, 3640251; 504839, 3640256; 504831, 3640261; 504823, 3640267; 504815, 3640274; 504808, 3640280; 504801, 3640288; 504795, 3640295; 504789, 3640303; 504786, 3640309; 504782, 3640304; 504778, 3640301; 504771, 3640294; 504763, 3640288; 504755, 3640282; 504752, 3640279; 504724, 3640262; 504719, 3640259; 504710, 3640254; 504701, 3640250; 504691, 3640246; 504689, 3640246; 504670, 3640240; 504663, 3640237; 504653, 3640235; 504643, 3640234; 504633, 3640233; 504623, 3640232; 504614, 3640233; 504594, 3640234; 504593, 3640234; 504583, 3640235; 504573, 3640236; 504563, 3640239; 504556, 3640241; 504554, 3640242; 504535, 3640243; 504527, 3640244; 504518, 3640246; 504508, 3640248; 504498, 3640251; 504489, 3640254; 504480, 3640258; 504471, 3640263; 504463, 3640268; 504454, 3640274; 504454, 3640274; 504454, 3640274; 504432, 3640268; 504430, 3640268; 504421, 3640265; 504411, 3640264; 504401, 3640263; 504391, 3640262; 504381, 3640263; 504371, 3640264; 504361, 3640265; 504351, 3640268; 504342, 3640270; 504333, 3640274; 504332,

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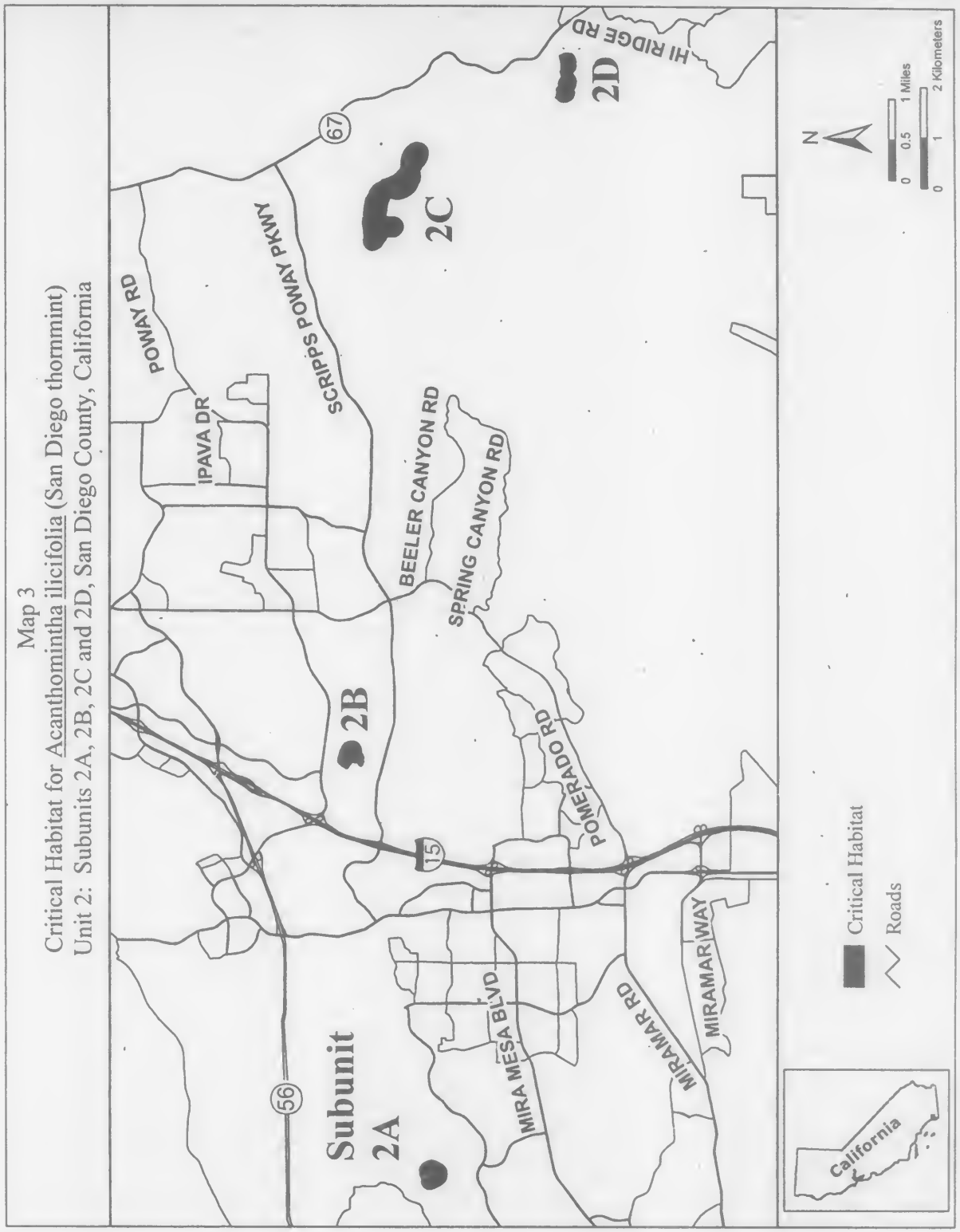
(v) Note: Map of Unit 2, subunits 2A, 2B, 2C, and 2D (Map 3), follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(8) Unit 3: San Diego County, California. From USGS 1:24,000 quadrangle maps Alpine and Viejas Mountain.

(i) Subunit 3A. Land bounded by the following UTM NAD27 coordinates (E,N): 523323, 3635057; 523320, 3635057; 523317, 3635056; 523314, 3635056; 523311, 3635056; 523308, 3635055; 523305, 3635055; 523303, 3635055; 523300, 3635055; 523297, 3635055; 523294, 3635055; 523291, 3635055; 523288, 3635055; 523285, 3635055; 523282, 3635056; 523279, 3635056; 523276, 3635056; 523274, 3635057; 523271, 3635057; 523266, 3635056; 523256, 3635054; 523255, 3635054; 523217, 3635049; 523208, 3635049; 523198, 3635048; 523188, 3635049; 523178, 3635050; 523169, 3635051; 523159, 3635053; 523149, 3635056; 523143, 3635059; 523141, 3635059; 523138, 3635060; 523136, 3635061; 523133, 3635062; 523130, 3635062; 523127, 3635063; 523125, 3635064; 523122, 3635065; 523119, 3635067; 523116, 3635068; 523114, 3635069; 523111, 3635070; 523109, 3635071; 523106, 3635073; 523104, 3635074; 523101, 3635076; 523099, 3635077; 523096, 3635079; 523094, 3635080; 523091, 3635082; 523089, 3635084; 523087, 3635085; 523084, 3635087; 523082, 3635089; 523080, 3635091; 523078, 3635093; 523075, 3635095; 523073, 3635097; 523071, 3635099; 523069, 3635101; 523067, 3635103; 523065, 3635105; 523063, 3635107; 523061, 3635109; 523060, 3635112; 523058, 3635114; 523056, 3635116; 523054, 3635119; 523053, 3635121; 523051, 3635123; 523049, 3635126; 523048, 3635128; 523046, 3635131; 523045, 3635133; 523044, 3635136; 523042, 3635138; 523041, 3635141; 523040, 3635144; 523039, 3635146; 523038, 3635148; 523037, 3635149; 523033, 3635158; 523028, 3635167; 523025, 3635176; 523022, 3635186; 523020, 3635196; 523018, 3635205; 523017, 3635212; 523016, 3635231; 523015, 3635234; 523015, 3635244; 523015, 3635254; 523016, 3635264; 523018, 3635274; 523020, 3635284; 523023, 3635293; 523026, 3635302; 523032, 3635317; 523033, 3635318; 523037, 3635327; 523042, 3635336; 523047, 3635344; 523053, 3635352; 523059, 3635360; 523066, 3635367; 523073, 3635374; 523081, 3635380; 523086, 3635384; 523103, 3635396; 523106, 3635398; 523115, 3635404; 523123, 3635408; 523133, 3635412; 523142, 3635416; 523151, 3635419; 523161, 3635421; 523169, 3635422; 523218, 3635430; 523220, 3635430; 523230, 3635431; 523240, 3635431; 523250, 3635431; 523260, 3635430; 523267, 3635429; 523281, 3635426; 523283, 3635426; 523293, 3635423; 523303, 3635421; 523312, 3635417; 523321, 3635413; 523330, 3635408; 523338, 3635403; 523347, 3635397; 523354, 3635391; 523362, 3635384; 523368, 3635377; 523375, 3635369; 523380, 3635361; 523389, 3635348; 523390, 3635347; 523395, 3635339; 523400, 3635330; 523404, 3635321; 523407, 3635313; 523408, 3635312; 523410, 3635309; 523412, 3635307; 523414, 3635305; 523416, 3635303; 523417, 3635300; 523419, 3635298; 523421, 3635296; 523423, 3635293; 523424, 3635291; 523426, 3635289; 523427, 3635286; 523429, 3635284; 523430, 3635281; 523432, 3635278; 523433, 3635276; 523434, 3635273; 523435, 3635271; 523437, 3635268; 523438, 3635265; 523439, 3635263; 523440, 3635260; 523441, 3635257; 523442, 3635254; 523443, 3635252; 523443, 3635249; 523444, 3635246; 523445, 3635243; 523446, 3635240; 523446, 3635238; 523447, 3635235; 523447, 3635232; 523448, 3635229; 523448, 3635226; 523448, 3635223; 523449, 3635220; 523449, 3635217; 523449, 3635215; 523449, 3635212; 523449, 3635209; 523449, 3635206; 523449, 3635203; 523449, 3635200; 523449, 3635197; 523449, 3635194; 523448, 3635191; 523448, 3635189; 523448, 3635186; 523447, 3635183; 523447, 3635180; 523446, 3635177; 523446, 3635174; 523445, 3635171; 523444, 3635169; 523443, 3635166; 523443, 3635163; 523442, 3635160; 523441, 3635157; 523440, 3635155; 523439, 3635152; 523438, 3635149; 523437, 3635147; 523435, 3635144; 523434, 3635141; 523433, 3635139; 523432, 3635136; 523430, 3635134; 523429, 3635131; 523427, 3635129; 523426, 3635126; 523424, 3635124; 523423, 3635121; 523421, 3635119; 523419, 3635117; 523417, 3635114; 523416, 3635112; 523414, 3635110; 523412, 3635107; 523410, 3635105; 523408, 3635103; 523406, 3635101; 523404, 3635099; 523402, 3635097; 523400, 3635095; 523398, 3635093; 523395, 3635091; 523393, 3635089; 523391, 3635087; 523389, 3635086; 523386, 3635084; 523384, 3635082; 523382, 3635081; 523379, 3635079; 523377, 3635077; 523374, 3635076; 523372, 3635075; 523369, 3635073; 523367, 3635072; 523364, 3635070; 523361, 3635069; 523359, 3635068; 523356, 3635067; 523353, 3635066; 523351, 3635065; 523348, 3635064; 523345, 3635063; 523342, 3635062; 523340, 3635061; 523337, 3635060; 523334, 3635059; 523331, 3635059; 523328, 3635058; 523326, 3635058; 523323, 3635057.

(ii) Subunit 3B. Land bounded by the following UTM NAD27 coordinates (E,N): 524731, 3634052; 524721, 3634052; 524711, 3634052; 524701, 3634053; 524701, 3634053; 524621, 3634064; 524612, 3634066; 524602, 3634068; 524593, 3634070; 524547, 3634086; 524546, 3634086; 524536, 3634090; 524527, 3634094; 524519, 3634099; 524510, 3634104; 524502, 3634110; 524494, 3634116; 524487, 3634123; 524480, 3634130; 524474, 3634138; 524468, 3634146; 524463, 3634154; 524450, 3634177; 524450, 3634177; 524445, 3634186; 524441, 3634195; 524437, 3634204; 524434, 3634214; 524432. 3634223; 524430, 3634233; 524429, 3634243; 524429, 3634249; 524428, 3634293; 524428, 3634298; 524428, 3634308; 524429, 3634317; 524431, 3634327; 524433, 3634337; 524436, 3634347; 524439, 3634356; 524444, 3634365; 524448, 3634374; 524452, 3634380; 524469, 3634407; 524471, 3634409; 524477, 3634418; 524483, 3634425; 524490, 3634433; 524497, 3634439; 524505, 3634446; 524513, 3634452; 524522, 3634457; 524530, 3634461; 524539, 3634466; 524549, 3634469; 524557, 3634472; 524601, 3634484; 524603, 3634484; 524607, 3634485; 524617, 3634500; 524621, 3634504; 524627, 3634512; 524634, 3634519; 524641, 3634526; 524647, 3634531; 524683, 3634560; 524686, 3634562; 524694, 3634568; 524702, 3634573; 524711, 3634578; 524720, 3634582; 524729, 3634585; 524739, 3634588; 524749, 3634590; 524758, 3634592; 524768, 3634593; 524778, 3634593; 524783, 3634593; 524811, 3634592; 524816, 3634592; 524826, 3634591; 524836, 3634590; 524845, 3634587; 524855, 3634584; 524864, 3634581; 524873, 3634577; 524882, 3634572; 524891, 3634567; 524899, 3634561; 524907, 3634555; 524914, 3634548; 524917, 3634544; 524933, 3634527; 524937, 3634523; 524943, 3634516; 524949, 3634508; 524954, 3634499; 524959, 3634490; 524963, 3634481; 524966, 3634472; 524986, 3634414; 524987, 3634413; 524990, 3634403; 524992, 3634394; 524993, 3634384; 524994, 3634374; 524995, 3634364; 524994, 3634354; 524993, 3634344; 524992, 3634334; 524990, 3634325; 524987, 3634315; 524985, 3634311; 524970, 3634270; 524968, 3634265; 524964, 3634255; 524959, 3634247; 524957, 3634243; 524957, 3634242; 524953, 3634220; 524952, 3634214; 524950, 3634204; 524947, 3634194; 524943, 3634185; 524939, 3634176; 524935, 3634167; 524929, 3634159; 524923, 3634150; 524917, 3634143; 524913, 3634139; 524890, 3634114; 524887,

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(iii) Subunit 3C. Land bounded by the following UTM NAD27 coordinates (E,N): 527113, 3634393; 527120, 3634389; 527111, 3634389; 527111, 3634111; 527113, 3633915; 527118, 3633794; 527114, 3633788; 527113, 3633774; 527112, 3633774; 527093, 3633707; 527076, 3633649; 527039, 3633580; 527011, 3633527; 526971, 3633497; 526913, 3633452; 526859, 3633439; 526776, 3633426; 526708, 3633424; 526665, 3633413; 526631, 3633392; 526626, 3633391; 526620, 3633369; 526618, 3633363; 526614, 3633353; 526610, 3633344; 526606, 3633335; 526601, 3633328; 526570, 3633281; 526556, 3633238; 526555, 3633238; 526552, 3633229; 526548, 3633220; 526543, 3633211; 526541, 3633208; 526515, 3633165; 526512, 3633159; 526506, 3633151; 526499, 3633143; 526493, 3633136; 526485, 3633129; 526478, 3633123; 526470, 3633117; 526461, 3633112; 526452, 3633107; 526443, 3633103; 526434, 3633099; 526424, 3633096; 526415, 3633094; 526405, 3633093; 526402, 3633092; 526376, 3633089; 526369, 3633089; 526359, 3633088; 526349, 3633089; 526339, 3633090; 526329, 3633091; 526319, 3633093; 526310, 3633096; 526300, 3633100; 526291, 3633104; 526282, 3633109; 526274, 3633114; 526266, 3633120; 526258, 3633126; 526251, 3633133; 526244, 3633140; 526238, 3633148; 526221, 3633170; 526221, 3633170; 526215, 3633178; 526209, 3633187; 526205, 3633195; 526201, 3633205; 526197, 3633214; 526194, 3633223; 526194, 3633225; 526175, 3633297; 526173, 3633306; 526171, 3633315; 526171, 3633325; 526170, 3633335; 526170, 3633340; 526173, 3633452; 526174, 3633458; 526175, 3633468; 526176, 3633478; 526179, 3633487; 526181, 3633497; 526185, 3633506; 526189, 3633515; 526194, 3633524; 526199,

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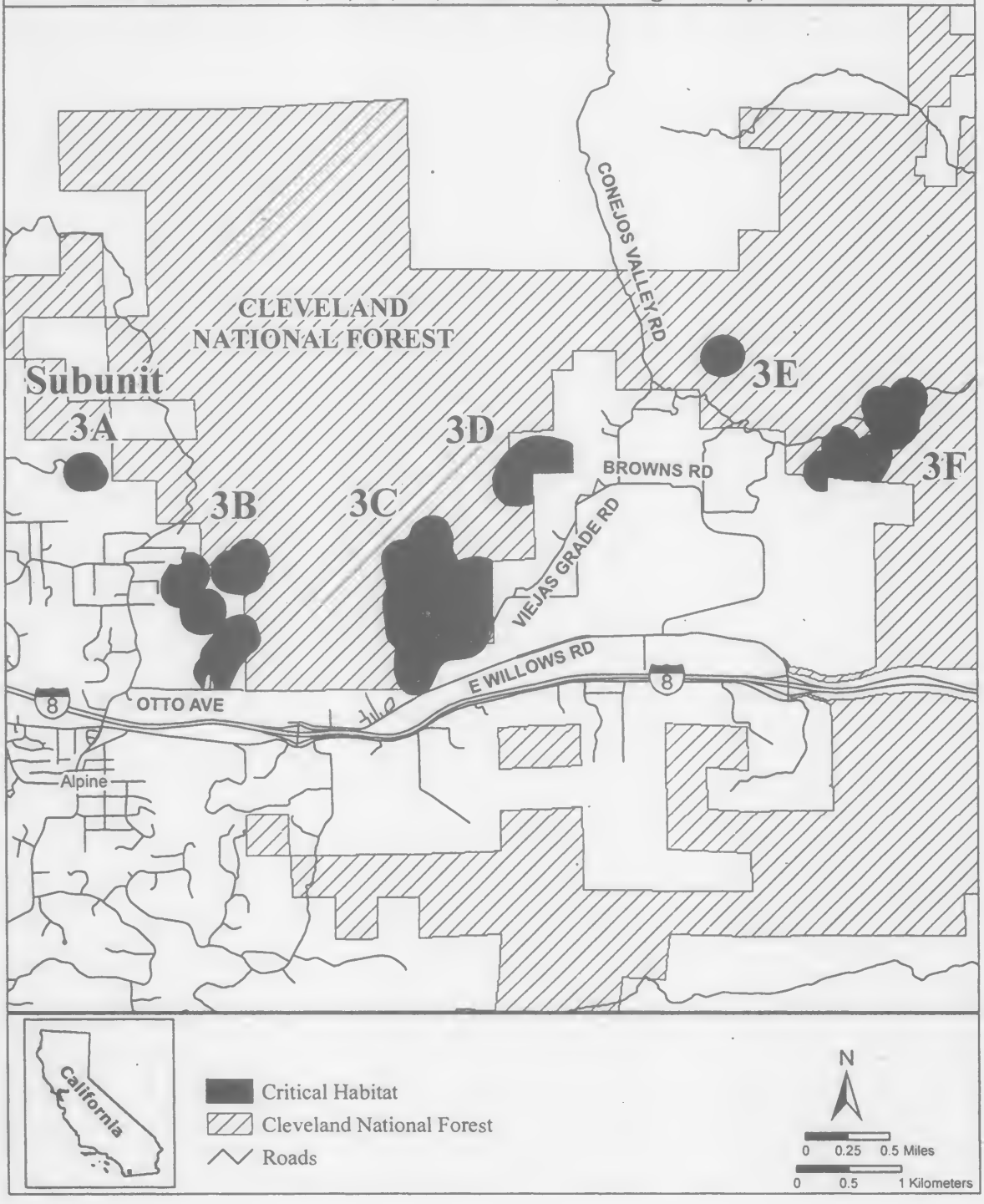
(vii) Note: Map of Unit 3, subunits 3A, 3B, 3C, 3D, 3E, and 3F (Map 4), follows:

BILLING CODE 4310–55–P

Map 4
Critical Habitat for Acanthomintha ilicifolia (San Diego thornmint)
Unit 3: Subunits 3A, 3B, 3C, 3D, 3E and 3F, San Diego County, California



BILLING CODE 4310–55–C

(9) Unit 4: San Diego County, California. From USGS 1:24,000 quadrangle maps Alpine and Dulzura.

(i) Subunit 4A. Land bounded by the following UTM NAD27 coordinates (E,N): 512236, 3624084; 512233, 3624084; 512230, 3624084; 512227, 3624084; 512224, 3624084; 512221, 3624085; 512218, 3624085; 512216, 3624085; 512213, 3624085; 512210, 3624086; 512207, 3624086; 512204, 3624087; 512201, 3624087; 512198, 3624088; 512196, 3624089; 512193, 3624089; 512190, 3624090; 512187, 3624091; 512184, 3624092; 512182, 3624093; 512179, 3624094; 512176, 3624095; 512174, 3624096; 512171, 3624097; 512168, 3624098; 512166, 3624100; 512163, 3624101; 512161, 3624102; 512158, 3624104; 512155, 3624105; 512153, 3624107; 512151, 3624108; 512148, 3624110; 512146, 3624112; 512143, 3624113; 512141, 3624115; 512139, 3624117; 512136, 3624119; 512134, 3624120; 512132, 3624122; 512130, 3624124; 512128, 3624126; 512126, 3624128; 512124, 3624130; 512122, 3624132; 512120, 3624135; 512118, 3624137; 512116, 3624139; 512114, 3624141; 512112, 3624143; 512110, 3624146; 512109, 3624148; 512107, 3624151; 512105, 3624153; 512104, 3624155; 512102, 3624158; 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(ii) Subunit 4B. Land bounded by the following UTM NAD27 coordinates (E,N): 513127, 3624170; 513130, 3624169; 513133, 3624169; 513136, 3624169; 513139, 3624168; 513142, 3624168; 513144, 3624168; 513147, 3624167; 513150, 3624166; 513153, 3624166; 513156, 3624165; 513159, 3624164; 513161, 3624164; 513164, 3624163; 513167, 3624162; 513170, 3624161; 513172, 3624160; 513175, 3624159; 513178, 3624158; 513179, 3624157; 513186, 3624157; 513196, 3624156; 513205, 3624154; 513205, 3624154; 513211, 3624153; 513224, 3624150; 513228, 3624149; 513237, 3624146; 513246, 3624143; 513255, 3624139; 513264, 3624134; 513273, 3624129; 513281, 3624123; 513289, 3624116; 513296, 3624110; 513303, 3624102; 513303, 3624102; 513306, 3624098; 513309, 3624096; 513317, 3624089; 513323, 3624081; 513330, 3624074; 513332, 3624071; 513337, 3624069; 513341, 3624067; 513350, 3624063; 513359, 3624058; 513367,

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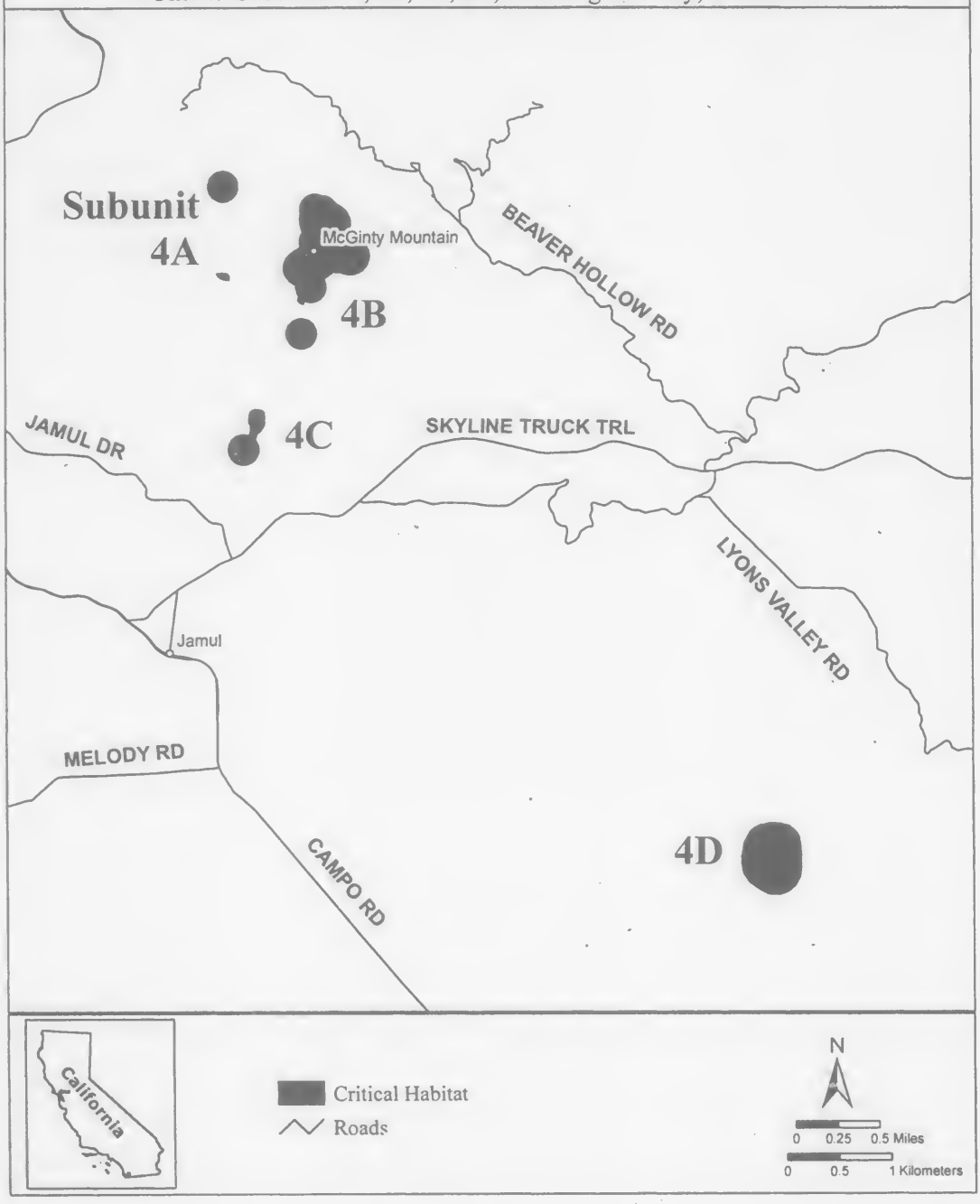
(iv) Subunit 4D. Land bounded by the following UTM NAD27 coordinates (E,N): 517545, 3617394; 517535, 3617393; 517529, 3617393; 517489, 3617395; 517485, 3617395; 517475, 3617396; 517466, 3617398; 517456, 3617400; 517446, 3617403; 517437, 3617407; 517428, 3617411; 517423, 3617414; 517362, 3617446; 517358, 3617448; 517350, 3617454; 517346, 3617457; 517290, 3617497; 517286, 3617499; 517279, 3617506; 517271, 3617513; 517265, 3617520; 517258, 3617528; 517257, 3617530; 517227, 3617570; 517223, 3617576; 517218, 3617584; 517213, 3617593; 517209, 3617602; 517205, 3617611; 517202, 3617621; 517200, 3617630; 517199, 3617637; 517192, 3617682; 517192, 3617685; 517191, 3617695; 517190, 3617705; 517190, 3617775; 517191, 3617785; 517192, 3617795; 517192, 3617799; 517204, 3617875; 517205, 3617881; 517208, 3617890; 517211, 3617900; 517214, 3617909; 517218, 3617918; 517220, 3617923; 517248, 3617975; 517251, 3617979; 517251, 3617979; 517252, 3617982; 517255, 3617988; 517259, 3617996; 517265, 3618005; 517270, 3618013; 517277, 3618021; 517284, 3618028; 517291, 3618035; 517299, 3618041; 517307, 3618047; 517315, 3618052; 517323, 3618057; 517361, 3618076; 517362, 3618076; 517371, 3618080; 517381, 3618084; 517390; 3618087; 517400, 3618089; 517405, 3618090; 517449, 3618097; 517453, 3618097; 517463, 3618098; 517473, 3618099; 517477, 3618099; 517544, 3618097; 517550, 3618097; 517560, 3618096; 517570, 3618094; 517580, 3618092; 517581, 3618092; 517593, 3618088; 517599, 3618088; 517604, 3618087; 517614, 3618085; 517623, 3618083; 517633, 3618080; 517642, 3618077; 517651, 3618073; 517660, 3618068; 517668, 3618063; 517677, 3618057; 517684, 3618050; 517692, 3618044; 517712, 3618023; 517719, 3618016; 517726, 3618008; 517731, 3618000; 517737, 3617991; 517741, 3617982; 517745, 3617973; 517749, 3617964; 517752, 3617954; 517754, 3617945; 517755, 3617939; 517760, 3617906; 517761, 3617904; 517768, 3617858; 517768, 3617855; 517769, 3617846; 517774, 3617769; 517774, 3617769; 517774, 3617759; 517774, 3617688; 517774, 3617678; 517774, 3617674; 517769, 3617618; 517768, 3617613; 517766, 3617603; 517764, 3617593; 517761, 3617583; 517758, 3617574; 517756, 3617571; 517735, 3617524; 517733, 3617518; 517728, 3617509; 517723, 3617501; 517717, 3617493; 517711, 3617485; 517704, 3617478; 517696, 3617471; 517693, 3617468; 517663, 3617444; 517659, 3617440; 517651, 3617435; 517643, 3617429; 517635, 3617425; 517603, 3617409; 517603, 3617409; 517594, 3617405; 517584, 3617401; 517575, 3617399; 517565, 3617396; 517555, 3617395; 517545, 3617394.

(v) Note: Map of Unit 4, subunits 4A, 4B, 4C, and 4D (Map 5), follows:

BILLING CODE 4310–55–P

Map 5
Critical Habitat for Acanthomintha ilicifolia (San Diego thornmint)
Unit 4: Subunits 4A, 4B, 4C, 4D, San Diego County, California



* * * * *

Dated: February 28, 2007.

David M. Verhey,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 07–1100 Filed 3–13–07; 8:45 am]

BILLING CODE 4310–55–C

Federal Register

Wednesday,
March 14, 2007

Part III

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 113

Temperature-Indicating Devices; Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 113

[Docket No. 2007N–0026]

Temperature-Indicating Devices; Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend its regulations for thermally processed low-acid foods packaged in hermetically sealed containers to allow for use of other temperature-indicating devices, in addition to mercury-in-glass thermometers, during processing. FDA also is proposing to establish recordkeeping requirements relating to temperature-indicating devices and to clarify other aspects of low-acid canned food processing such as FDA's interpretation of some requirements of the current regulations that will, in part, allow the use of advanced technology for measuring and recording temperatures during processing. Finally, FDA is proposing to include metric equivalents of avoirdupois (U.S.) measurements where appropriate.

DATES: Submit written or electronic comments on the proposed rule by June 12, 2007. Submit comments regarding the information collection by April 13, 2007, to the Office of Management and Budget (OMB) (see **ADDRESSES**).

ADDRESSES: You may submit comments, identified by Docket No. 2007N–0026, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following ways:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Agency Web site: *http://www.fda.gov/dockets/ecomments*. Follow the instructions for submitting comments on the agency Web site.

Written Submissions

Submit written submissions in the following ways:

- FAX: 301–827–6870.
- Mail/Hand delivery/Courier [For paper, disk, or CD–ROM submissions]: Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

To ensure more timely processing of comments, FDA is no longer accepting comments submitted to the agency by e-mail. FDA encourages you to continue to submit electronic comments by using the Federal eRulemaking Portal or the agency Web site, as described previously, in the **ADDRESSES** portion of this document under *Electronic Submissions*.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received may be posted without change.to *http://www.fda.gov/ohrms/dockets/default.htm*, including any personal information provided. For additional information on submitting comments, see the "Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.fda.gov/ohrms/dockets/default.htm* and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Information Collection Provisions: Submit written comments on the information collection provisions to the Office of Information and Regulatory Affairs, OMB. To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Mischelle B. Ledet, Center for Food Safety and Applied Nutrition (HFS–615), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–2359.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

In the **Federal Register** of January 24, 1973 (38 FR 2398), FDA (we) issued a final rule entitled "Thermally Processed Low-Acid Food Packaged in Hermetically Sealed Containers" (low-acid canned foods) (the 1973 final rule), part 113 (21 CFR part 113)[1], which, among other things, provides for the use of an "indicating mercury-in-glass thermometer" for equipment and procedures for the following: (1) Pressure processing in steam in still retorts (§ 113.40(a)), (2) pressure processing in water in still retorts (§ 113.40(b)), (3) pressure processing in steam in continuous agitating retorts (§ 113.40(c)), (4) pressure processing in steam in discontinuous agitating retorts (§ 113.40(d)), (5) pressure processing in water in discontinuous agitating retorts (§ 113.40(e)), (6) pressure processing in steam in hydrostatic retorts (§ 113.40(f)), and (7) aseptic processing and packaging systems (§ 113.40(g)). In addition, aseptic processing systems (§ 113.40(g)) can be equipped with a mercury-in-glass thermometer or an equivalent temperature-indicating device, such as a thermocouple-recorder.

The 1973 final rule also established requirements for containers (§ 113.60), requirements for establishing scheduled processes (§ 113.83), and requirements for operations in the thermal processing room (§ 113.87). The 1973 final rule also established requirements for processing and production records, which include requirements for maintaining records of mercury-in-glass thermometer and recording thermometer readings (§ 113.100).

In the preamble to the 1973 final rule, FDA stated that two comments on a tentative final order, published November 14, 1972 (37 FR 24117), "recommended that provisions be made [in the final rule] for the use of temperature[-]indicating devices other than mercury-in-glass thermometers."

[1]The low-acid canned food regulations (21 CFR part 128b) were recodified as part 113 on March 15, 1977 (42 FR 14302). The regulations were subsequently amended on March 16, 1979 (44 FR 16209) and June 11, 1997 (62 FR 31721).

FDA responded, "The Commissioner [of Food and Drugs] has determined that the mercury-in-glass thermometer is the recognized standard against which all other temperature[-]indicating devices are checked and calibrated. The regulation * * * retains the requirement that all retorts be equipped with mercury-in-glass indicating thermometers. However, because of the speed of the thermal process, alternate temperature[-]indicating devices such as thermocouples will be allowed in aseptic processing and packaging systems" (38 FR 2398 at 2400).

Since publication of the 1973 final rule, FDA has received various requests to permit use of alternative temperature-indicating devices or to permit entry into the United States of low-acid canned foods that were processed in countries that permit alternative temperature-indicating devices to be used during processing. In responding to such requests, FDA expressed concern about whether the devices were reliable and maintained accuracy under actual plant operation conditions. FDA also requested additional information relating to reliability and accuracy, including evidence to show that, if the device does not maintain its accuracy, this fact would become immediately known by the operator and would not result in underprocessed food.

FDA is aware that technological advancements in thermometry have been made since publication of the low-acid canned food regulations in 1973 and that temperature-indicating devices other than mercury-in-glass thermometers are now available that may be appropriate for use in thermal processing of low-acid foods. FDA also is aware, specifically for low-acid canned food manufacturers, of traditional concerns about ensuring that mercury from broken mercury-in-glass thermometers does not contaminate the food or the processing environment. FDA recognizes that the industry must proceed cautiously to transition from mercury-in-glass thermometers to alternative technology to ensure that accuracy and ability to function properly during processing are not compromised by replacing mercury-in-glass thermometers with alternative temperature-indicating devices. As with mercury-in-glass thermometers, manufacturers who use alternative temperature-indicating devices must conduct appropriate tests and implement procedures to ensure that the device is accurate during processing and does not result in underprocessed foods. Thus, although FDA supports elimination of mercury from the processing environment and encourages industry to take necessary and appropriate steps to transition from mercury-in-glass thermometers to alternative temperature-indicating devices, the agency also recognizes that it may not be practical for all manufacturers to make this transition. Accordingly, FDA is proposing to revise regulations in part 113 to permit industry use of temperature-indicating devices, including mercury-in-glass thermometers, and to require maintenance of records associated with ensuring that temperature-indicating devices are accurate during processing.

FDA also is aware that the regulations from the 1973 final rule include outdated terminology and that some of the provisions are unclear. FDA is proposing to update and clarify these sections of the regulations. FDA also is proposing to clarify and establish recordkeeping requirements relating to ensuring the accuracy of temperature-indicating devices.

II. Legal Authority

FDA is proposing these regulations under sections 402(a)(3) and (a)(4) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 342(a)(3) and (a)(4)). In addition, FDA is proposing these regulations under section 361 of the Public Health Service Act (the PHS Act) (42 U.S.C. 264) that relates to communicable disease. Under section 402(a)(3) of the act, a food is deemed adulterated "if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food." Under section 402(a)(4) of the act, a food is adulterated "if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health."

A commercial processor engaged in the thermal processing of low-acid foods packaged in hermetically sealed containers must provide FDA with information about its scheduled process that includes processing method, type of retort or other thermal processing equipment employed, minimum initial temperatures, times and temperatures of processing, sterilizing value or other equivalent scientific evidence of processing adequacy, critical control factors affecting heat penetration, and source and date of the establishment of the process for each low-acid food in each container size (21 CFR 108.35(c)(2)). The scheduled process is designed to achieve commercial sterility. Commercial sterility relates to conditions achieved through the application of heat to render the food free of certain microorganisms capable of reproducing under normal non-refrigerated conditions of storage and distribution and viable microorganisms of public health significance (§ 113.3(e)). Adhering to the scheduled process is important for preventing growth in the food of microorganisms, such as *Clostridium botulinum*. *Clostridium botulinum* produces a neurotoxin that causes botulism, a communicable disease that can result in paralysis and death (Ref. 1). The failure to use accurate temperature-indicating devices, and other measures clarified in this proposed rule, to ensure that low-acid foods are processed to achieve commercial sterility is an insanitary condition and thus renders the food adulterated under section 402(a)(4) of the act. In addition, such a food is unfit for food under section 402(a)(3) of the act based on health risks from insufficient processing.

Under section 701(a) of the act (21 U.S.C. 371(a)), FDA is authorized to issue regulations for the act's efficient enforcement. A regulation that requires measures to prevent human food from being unfit for food and from being held under insanitary conditions allows for the efficient enforcement of the act. This proposed rule requires processors of thermally processed low-acid food to establish and maintain records of the accuracy of the temperature-indicating device and reference device. Other records relating to processing and production are currently required in § 113.100. The proposed rule requires that all records under part 113, whether currently required or proposed to be required in this proposed rule, be made available to FDA for inspection and copying.

The proposed rule would require accuracy testing of temperature-indicating devices against a calibrated reference device by appropriate standard procedures upon installation and at least once a year thereafter, or more frequently if necessary, to ensure accuracy during processing. Documentation of accuracy of such devices is necessary to determine, over time, whether each device complies with current requirements to be accurate during processing and for verifying that temperatures required by the scheduled process are met during processing. Further, such documentation is necessary for evaluating the performance of temperature-indicating devices that are technologically and operationally different from mercury-in-glass thermometers traditionally used in processing low-acid canned food. The records of accuracy testing for each temperature-indicating device and reference device will be linked to each

such device through the accuracy records so that the processor will be able to ensure that temperature-indicating devices and reference devices are tested as often as needed and will provide a means for the processor to quickly identify and correct problems that may occur. Without records documenting accuracy testing of temperature-indicating devices and reference devices, processors would not know whether they are adulterating their products. Therefore, a failure of processors to establish and maintain these records results in thermally processed low-acid canned food being prepared under insanitary conditions whereby the food may have been rendered injurious to health.

Because FDA cannot continuously observe processors' operations, the records for accuracy, and other records currently required for processing and production, are essential for FDA to know whether processors have complied with the current good manufacturing practice requirements in part 113. FDA may consider it necessary to copy records when, for example, our investigator may need assistance in reviewing a certain record from relevant experts in headquarters. If we are unable to copy the records, we would have to rely solely on our investigator's notes and reports when drawing conclusions. In addition, copying records will facilitate followup regulatory actions. We have tentatively concluded that the ability to access and copy the records is necessary to provide FDA with an enforceable regulation that will ensure public health protection. Thus, the recordkeeping requirements and access to such records would be necessary to the efficient enforcement of the act. Under the proposed rule, the failure to comply with the recordkeeping requirements would render the food adulterated under section 402(a)(4) of the act.

In addition, FDA has authority under section 361 of the PHS Act to make and enforce such regulations as "are necessary to prevent the introduction, transmission, or spread of communicable disease from foreign countries into the States * * * or from one State * * * into any other State" (section 361(a) of the PHS Act). A low-acid canned food that is not processed to achieve commercial sterility may become contaminated with microorganisms such as *Clostridium botulinum*. *Clostridium botulinum* produces a neurotoxin which, when ingested, causes botulism. Botulism is a communicable disease that is characterized by the rapid onset of paralysis. If untreated, this paralysis can lead to death (Ref. 1). As explained previously in this document, processing and production records required by part 113, and those proposed in this rule related to accuracy testing, are necessary to ensure that low-acid foods are prepared in a manner that will prevent the spread of communicable disease. Section 361 of the PHS Act provides FDA with the authority to institute recordkeeping requirements, including access to such records to enable FDA to ensure that low-acid foods are being processed in a manner to prevent the spread of communicable disease. For these reasons, and for the reasons stated previously in this document for access and copying of records to provide for an enforceable regulation that will ensure public health protection, we have tentatively concluded that the recordkeeping requirements are necessary to prevent the spread of communicable disease.

III. Proposed Rule

A. Equipment and Procedures (§ 113.40)

1. Temperature-Indicating Devices

Current § 113.40(a)(1), (b)(1), (c)(1), (d)(1), (e)(1), and (f)(1) require that retorts used for processing low-acid foods shall be equipped with at least one mercury-in-glass thermometer. FDA is proposing to revise the regulations to provide for use of temperature-indicating devices that accurately indicate the temperature during thermal processing. Accordingly, FDA is replacing the terms "mercury-in-glass thermometer" and "thermometer" with "temperature-indicating device," as appropriate. Current § 113.40(g)(1) already allows for use of temperature-indicating devices for aseptic processing of low-acid foods. However, FDA is proposing revisions in § 113.40(g)(1) similar to proposed § 113.40(a)(1), (b)(1), (c)(1), (d)(1), (e)(1), and (f)(1) to ensure consistency in terminology, interpretation, and application of all provisions of the regulation that allow for use of temperature-indicating devices.

The term "temperature-indicating device" includes mercury-in-glass thermometers. The proposed rule provides for use of temperature-indicating devices for the following purposes: (1) Pressure processing in steam in still retorts, (2) pressure processing in water in still retorts, (3) pressure processing in steam in continuous agitating retorts, (4) pressure processing in steam in discontinuous agitating retorts, (5) pressure processing in water in discontinuous agitating retorts, (6) pressure processing in steam in hydrostatic retorts, and (7) aseptic processing and packaging. Processors are responsible for ensuring that the temperature-indicating device is accurate during processing.

FDA is proposing that temperature-indicating devices shall be tested for accuracy against an "accurate calibrated reference device" upon installation and at least once a year thereafter, or more frequently if necessary, to ensure accuracy during processing. Currently, mercury-in-glass thermometers must be tested for accuracy against a "known accurate standard thermometer" upon installation and at least once a year thereafter, or more frequently if necessary. FDA is proposing to require similar tests for accuracy for all temperature-indicating devices. Traditionally, a "known accurate standard thermometer" was a mercury-in-glass thermometer that had been calibrated against an instrument that was traceable to a National Institute of Standards and Technology (NIST) standard or according to other standard calibration procedures that assured accuracy at the time the thermometer was used as the "standard." These thermometers are often referred to as "reference devices." (NIST is a non-regulatory Federal agency that develops and promotes measurement, standards, and technology to enhance productivity, facilitate trade, and improve the quality of life.) FDA is proposing to replace the term "known accurate standard thermometer" with the broader term "accurate calibrated reference device" to recognize that reference or "standard" devices other than mercury-in-glass thermometers are available and may be used for determining accuracy.

FDA is proposing that the design of the temperature-indicating device shall ensure that the accuracy of the device is not affected by electromagnetic interference and environmental conditions. Although electromagnetic energy does not affect the accuracy of mercury-in-glass thermometers, temperature-indicating devices with electronic or electromagnetic components are vulnerable and must be designed to ensure that they are resistant to electromagnetic interference. Environmental conditions, such as humidity, vibrations, and air pressure, which may affect the accuracy or performance of the temperature-indicating device, also must be identified and controlled, to the extent necessary, to ensure that the temperature-indicating device is accurate during processing. The current regulations indirectly address control of the impact of environmental conditions on mercury-in-glass thermometers by requiring calibration "at least once a

year * * * or more frequently if necessary, to ensure their accuracy" (§ 113.40(a)(1), (b)(1), (c)(1), (d)(1), (e)(1), (f)(1), and (g)(1)(i)(*a*)) and by requiring that a mercury-in-glass thermometer that has a "divided mercury column or that cannot be adjusted to the standard shall be repaired or replaced before further use of the retort" (§ 113.40(a)(1), (b)(1), (c)(1), (d)(1), (e)(1), and (f)(1); similar requirement in § 113.40(g)(1)(i)(*a*)). The design of the mercury-in-glass thermometer makes it relatively easy to detect a malfunction, including those caused by environmental conditions, because most are associated with a broken thermometer, separated column, or scale slippage. However, malfunction of other temperature-indicating devices may need to be detected by means other than observation. For example, a temperature-indicating device could be designed with a dual probe sensor that would enable detection of loss of accuracy of one of the probes when the probe readings do not agree. FDA recommends, but is not proposing to require, a dual probe design. FDA recognizes that specific design specifications for temperature-indicating devices may limit the flexibility of the regulation for current and future technologies. Design specificity in the regulation is not practical because of the diversity of technology associated with temperature-indicating devices that have been or may be developed and because, for each type of temperature-indicating device, different factors or parameters may need to be addressed by design. Rather, the proposed regulation would require that the design of the temperature-indicating device ensure that the accuracy of the device is not affected by electromagnetic interference and environmental conditions. Thus, the processor is responsible for ensuring that the temperature-indicating device is designed so that its accuracy during processing is not compromised due to electromagnetic interference or environmental conditions and that any malfunctions in the device that may affect accuracy will be immediately detectable.

2. Documentation and Records

Current § 113.40(a)(1), (b)(1), (c)(1), (d)(1), (e)(1), and (f)(1) recommend, but do not specifically require, maintenance of records of accuracy checks. These regulations indicate that the records should specify the date, standard used, method used, and person performing the test. The regulations also recommend, but do not require, that each thermometer should have a tag, seal, or other means of identity that includes the date on which it was last tested for accuracy. Similar provisions in current § 113.40(g)(1)(i)(*a*) apply to maintenance of records of accuracy checks and to establishing a means of identity for "thermometers and temperature-indicating devices." However, establishment and maintenance of records of the accuracy of each temperature-indicating device are essential for documenting accuracy of temperature-indicating devices throughout time, for determining that each temperature-indicating device complies with current requirements to be accurate during processing, and for verifying that temperatures required by the scheduled process are met. Further, such documentation is necessary for evaluating the performance of temperature-indicating devices that are technologically and operationally different from mercury-in-glass thermometers traditionally used in processing low-acid canned food.

FDA is proposing to require that each temperature-indicating device have a tag, seal, or other means of identity that will be used by the processor to identify the temperature-indicating device and that each reference device have a tag, seal, or other means of identity that will be used by the processor to identify the reference device. FDA is proposing to eliminate the current recommendation in § 113.40(a)(1), (b)(1), (c)(1), (d)(1), (e)(1), (f)(1), and (g)(1)(i)(*a*) to include on the tag or seal the date on which each thermometer was last tested for accuracy. FDA does not object to recording the accuracy test date on the tag or seal. However, as discussed later in this document, FDA is proposing to require that the date of the last accuracy test be included as part of the record of accuracy for the temperature-indicating device. FDA believes this proposed change clarifies the process for assuring that the written record of the accuracy test can be linked to the appropriate temperature-indicating device.

FDA is proposing that a written record of accuracy for each temperature-indicating device shall be established and maintained. Documentation of the accuracy of each temperature-indicating device shall include the following information: (1) A reference to the tag, seal, or other means of identity used by the processor to identify the temperature-indicating device; (2) the name of the manufacturer of the temperature-indicating device; (3) the identity of the reference device used for the accuracy test; (4) the identity of the equipment and procedures used to adjust or calibrate the temperature-indicating device; (5) the date and results of each accuracy test; (6) the name of the person or facility that performed the accuracy test and adjusted or calibrated the temperature-indicating device; and (7) the date of the next scheduled accuracy test. Reference to the temperature-indicating device identity in the record of accuracy provides an essential link between each temperature-indicating device and the specific record associated with that device. The name of the manufacturer enables the processor to readily identify the source of the defective or deficient device and to correct or replace the device, as appropriate. Identification of the reference device used for the accuracy check and of the equipment and procedures used to adjust or calibrate the temperature-indicating device provides an essential reference for additional followup in the event the reference device is subsequently determined to be inaccurate. Documentation of the date and results of accuracy tests provides evidence that scheduled tests were performed and is essential for evaluating performance of the temperature-indicating device over time. This information can be used to determine whether more frequent accuracy tests are needed and whether a temperature-indicating device needs to be replaced. Documentation of the identification of the person or facility that performed the accuracy test and adjusted or recalibrated the temperature-indicating device is essential for appropriate followup in the event that the temperature-indicating device subsequently is determined to be inaccurate.

These records are necessary to ensure that appropriate accuracy checks are performed for each temperature-indicating device, to establish the appropriate frequency for accuracy checks, to identify when there is a problem with a temperature-indicating device and, as necessary, to repair or replace the device, and to determine and initiate appropriate followup to ensure that low-acid canned foods are appropriately processed. Because it is not possible for FDA to continuously observe processors' operations, these records are essential to ensure that the agency has the information needed to identify noncompliance and to bring a non-compliant processor into compliance. Thus, these records are essential for FDA to have an enforceable regulation that will ensure public health protection.

Current § 113.40(a)(1), (b)(1), (c)(1), (d)(1), (e)(1), and (f)(1) require that thermometers (and temperature-indicating devices in § 113.40(g)(1)(i)(*a*)) shall be tested for accuracy against a

known accurate standard thermometer. This requirement implies, but does not explicitly state, that the processor must be able to demonstrate, by appropriate documentation, that the reference or standard device used to determine the accuracy of the thermometers used to measure temperature during processing also is accurate. Thus, although the current regulations require documentation of the accuracy of the standard thermometer, the specific documentation FDA expects processors to maintain is not clear. FDA is proposing to clarify this requirement by specifying that a written record of the accuracy of the reference device shall be established and maintained. Documentation of the accuracy of the reference device must include the following information: (1) A reference to the tag, seal, or other means of identity used by the processor to identify the reference device; (2) the name of the manufacturer of the reference device; (3) the identity of the equipment and procedures used to test the accuracy and to adjust or calibrate the reference device; (4) the identity of the person or facility that performed the accuracy test and adjusted or calibrated the reference device; (5) the date and results of the accuracy test; and (6) the traceability information. Traceability, as defined by the *International Vocabulary of Basic and General Terms in Metrology*, means a "property of the result of a measurement or the value of a standard whereby it can be related to stated references, usually national or international standards, through an unbroken chain of comparisons all having stated uncertainties" (Ref. 2). Accordingly, records must be maintained to document that the accuracy of the reference device can be traced by comparison with a standard device, such as a NIST standard temperature device. Documentation of the traceability information for the reference device may be in the form of a guaranty of accuracy from the manufacturer of the reference device or a certificate of calibration from a laboratory. Information required in the record of accuracy for a reference device is essential for assuring that reference devices maintain their accuracy and ensures that the processor can establish an unbroken chain to trace the accuracy of the reference device to a standard device.

The requirements in proposed § 113.40(a)(1), (b)(1), (c)(1), (d)(1), (e)(1), (f)(1), and (g)(1)(i)(*a*) to establish and maintain written records of accuracy of temperature-indicating devices and reference devices, which include the identity of temperature-indicating devices and reference devices, are subject to the recordkeeping requirements of § 113.100. See the discussion later in this document relating to proposed revisions to § 113.100.

FDA is proposing to revise § 113.40(g)(1)(ii)(*e*) by removing the requirement to observe and record the product temperature in the temperature recorder-controller at the final heater outlet in aseptic processing and packaging systems. The temperature in the final heater outlet may not be a critical factor in the scheduled process and, therefore, may not require maintenance of records. However, if the final heater outlet temperature is identified as a critical factor in the scheduled process, the temperature must be observed and recorded, as required in § 113.100(a).

3. Metric Equivalents

FDA is proposing to revise § 113.40(a), (b), (c), (d), (e), (f), and (g) to provide metric equivalents of avoirdupois (U.S.) measurements. Currently, these regulations express temperature measurements in Fahrenheit (°F) units, length measurements in inches and feet, and pressure measurements in pounds per square inch. The proposed metric equivalents are provided in parenthesis in the text of the proposed regulation, immediately following the avoirdupois measurement. FDA is proposing to modify the current regulations to not only provide the temperature measurements in Fahrenheit, but to follow the Fahrenheit (°F) measure with the units in Celsius (°C). FDA is proposing to provide measurements currently in inches also in millimeters or centimeters, measurements currently in feet also in centimeters or meters, and measurements in pounds per square inch of pressure also in kilopascals.

4. Temperature-Recording Devices

Current § 113.40(a)(2), (b)(2), (c)(2), (d)(2), (e)(2), (f)(2), and (g)(1)(i)(*b*) states that, "Graduations on the temperature-recording devices shall not exceed 2 °F within a range of 10 °F of the processing temperature. Each chart shall have a working scale of not more than 55 °F per inch within a range of 20 °F of the processing temperature. The temperature chart shall be adjusted to agree as nearly as possible with, but to be in no event higher than, the known accurate mercury-in-glass thermometer during the process time." When the regulations were published in the 1973 final rule, temperature-recording devices generally recorded temperatures to paper charts and the paper charts served as the historical record of temperatures during processing. At that time, the terms "temperature-recording device" and "recording chart" were used interchangeably. However, because of advancements in technology, temperatures may now be recorded in a format other than the traditional chart that has a pre-printed time and temperature scale and may be recorded and maintained by mechanisms or devices other than recorders that use the traditional recording charts. The permanent record of temperatures may be in the form of an analog or graphical recording, such as a traditional chart with pre-printed time and temperature scale. The permanent record also may be an analog or graphical recording, for which the chart design, continuous temperature recordings or tracings, and date and time notations may be generated and printed by the temperature-recording device onto a blank paper, chart, or other medium as they are generated by the temperature-recording device. Processors also are using temperature-recording devices, such as data loggers, that record numbers or create other digital recordings at established intervals, rather than providing continuous recordings on a chart. Therefore, FDA recognizes that the term "temperature-recording device" does not necessarily imply that temperatures are being recorded to a "temperature-recording chart." Thus, the "graduation" and "working scale" requirements in the current regulation do not apply to all temperature-recording device records. The general term "temperature-recording device" should be used when referring to the entire device that records temperatures and the term "temperature-recording chart" should be used when referring to an actual chart that constitutes the mechanism by which the temperature-recording device records processing temperatures. The "graduation" and "working scale" requirements specified in the current regulation are still applicable to the "temperature-recording chart," when used as the mechanism for recording processing temperatures.

FDA, therefore, is proposing to revise § 113.40(a)(2), (b)(2), (c)(2), (d)(2), (e)(2), (f)(2), and (g)(1)(i)(*b*) to provide flexibility for processors to use temperature-recording device advanced technology, to update terminology to reflect current and appropriate use of terms such as "temperature-recording device" and "temperature-recording chart," to replace the terms "mercury-in-glass thermometer" and

"thermometer" with "temperature-indicating device," to replace the term "bulb" with "sensor" (discussed later in this document), and to clarify the requirements for temperature-recording devices and the records created by the devices as follows:

Temperature-recording device. Each retort, or product sterilizer, shall have an accurate temperature-recording device that records temperatures to a permanent record, such as a temperature-recording chart.

Analog or graphical recordings. Temperature-recording devices that create analog or graphical recordings may be used. Temperature-recording devices that record to charts shall be used only with the appropriate chart. Each chart shall have a working scale of not more than 55 °F per inch (12 °C per centimeter) within a range of 20 °F (10 °C) of the process temperature. Chart graduations shall not exceed 2 °F (1 °C) within a range of 10 °F (5 °C) of the process temperature. Temperature-recording devices that create multipoint plottings of temperature readings shall record the temperature at intervals that will assure that the parameters of the process time and process temperature have been met.

Digital recordings. Temperature-recording devices, such as data loggers, that record numbers or create other digital recordings may be used. Such a device shall record the temperature at intervals that will assure that the parameters of the process time and process temperature have been met.

5. Sensors

FDA is proposing to revise § 113.40(a), (b), (c), (d), (e), (f), and (g)(1) by replacing the term "bulb" or "bulb or sensor" with the general term "sensor" when referring generally to the sensing element of temperature-indicating devices, temperature-recording devices, and temperature-controlling devices. The sensing element of a mercury-in-glass thermometer is called a "bulb" in the current regulations. The term "sensor" encompasses "bulb" as well as other types of temperature-indicating device sensing elements, which are not bulbs. In the proposed regulation, the inclusive term "sensor" is used when referring to the sensor portion of a temperature-indicating device, which may be the bulb of a mercury-in glass thermometer, or to the sensing element or probe of a temperature-recording device or temperature-controlling device, which may include a mercury-in-glass thermometer as a component of the device.

FDA is proposing to revise § 113.40(b)(2) to clarify that, for still retort systems that pressure process in water and are equipped with combination recorder-controller sensors, the temperature recorder-controller sensors shall be located where the recorded temperature is an accurate measurement of the scheduled process temperature and is not affected by the heating media. Current § 113.40(b)(2) indicates specific requirements for placement of sensors for recorder-controllers, as follows: "The recording-thermometer bulb should be located adjacent to the bulb of the mercury-in-glass thermometer, except in the case of a vertical retort equipped with a combination recorder-controller. In such vertical retorts, the temperature recorder-control bulb shall be located at the bottom of the retort below the lowest crate rest in such a position that the steam does not strike it directly. In horizontal retorts, the temperature recorder-control bulb shall be located between the water surface and the horizontal plane passing through the center of the retort so that there is no opportunity for direct steam impingement on the control bulb." These requirements for placement of combination recorder-controller sensors were intended to ensure accurate measurement of the scheduled process temperature and were helpful specific directives for sensor placement when the regulations were published in 1973, based on retort designs at that time. However, it may be technologically feasible to comply with the specific requirements of the current regulation, but place the sensor in a location that does not accurately measure the scheduled process temperature. Thus, although the specific sensor location requirements of current § 113.40(b)(2) are still valid, FDA believes further clarification is needed to ensure that combination recorder-controller sensors are located where the recorded temperature is an accurate measurement of the scheduled process temperature and is not affected by the heating media. FDA is proposing to provide this clarification in new § 113.40(b)(2)(iv) as follows:

- The temperature-recording device may be combined with the steam controller and may be a combination recording-controlling instrument. For a vertical retort equipped with a combination recorder-controller, the temperature recorder-controller sensor shall be located at the bottom of the retort below the lowest crate rest in such a position that the steam does not strike it directly. For a horizontal retort equipped with a combination recorder-controller, the temperature recorder-controller sensor shall be located between the water surface and the horizontal plane passing through the center of the retort so that there is no opportunity for direct steam impingement on the sensor. For all still retort systems that pressure process in water and are equipped with combination recorder-controllers, the temperature recorder-controller sensors shall be located where the recorded temperature is an accurate measurement of the scheduled process temperature and is not affected by the heating media. Air-operated temperature controllers should have adequate filter systems to ensure a supply of clean, dry air.

FDA is proposing to clarify in § 113.40(b)(9) that a sensor, in addition to a gage, water glass, or petcock, may be used to determine the water level in the retort during operation. For some water level indictors, the term "sensor" may more appropriately describe the mechanism that measures or detects the water level.

FDA is proposing to revise § 113.40(e)(1) to clarify requirements for placement of sensors of temperature-indicating devices in discontinuous agitating retorts used for pressure processing in water, i.e., a water immersion processing system. Current § 113.40(e)(1) requires, "Bulbs of indicating thermometers shall be installed either within the retort shell or in external wells attached to the retort." However, this basic, unqualified requirement to place sensors in the retort shell or in external wells may not be sufficient to ensure proper placement of temperature-indicating device sensors in discontinuous agitating retorts used for pressure processing in water. Current § 113.40(b)(1), relating to pressure processing in water in still retorts, also a water immersion process, clarifies that, "Bulbs of indicating thermometers shall be located in such a position that they are beneath the surface of the water throughout the process * * * this entry should be made in the side at the center, and the thermometer bulb shall be inserted directly into the retort shell * * * the thermometer bulbs shall extend directly into the water a minimum of at least 2 inches without a separable well or sleeve." This type of clarification relating to placement of temperature-indicating device sensors in still retorts used for pressure processing in water also applies to discontinuous retorts for pressure processing in water. Thus, FDA is proposing to revise § 113.40(e)(1) (proposed § 113.40(e)(1)(v)) by adding clarifying language relating to temperature-indicating device sensor

placement, similar to current § 113.40(b)(1), as follows:

• Each temperature-indicating device shall be installed where it can be accurately and easily read. The sensor of the temperature-indicating device shall be installed either within the retort shell or in an external well attached to the retort. Sensors of temperature-indicating devices shall be located in such a position that they are beneath the surface of the water throughout the process. This entry should be made in the side at the center, and the temperature-indicating device sensor shall be inserted directly into the retort shell. The temperature-indicating device sensor shall extend directly into the water a minimum of at least 2 inches (5.1 centimeters) without a separable well or sleeve. If a separate well or sleeve is used, there must be adequate circulation to ensure accurate temperature measurements. The temperature-indicating device—not the temperature-recording device—shall be the reference instrument for indicating the processing temperature.

6. Vents

FDA is proposing to revise § 113.40(a)(12) to clarify that the "installations and operating procedures" in § 113.40(a)(12)(i)(*a*) through (a)(12)(i)(*d*) and (a)(12)(ii)(*a*) and (a)(12)(ii)(*b*) do not apply to systems that use dividers between layers of containers. Current § 113.40(a)(12) states, in part, "Some typical installations and operating procedures reflecting the requirements of this section for venting still retorts are given in paragraph (a)(12)(i)(*a*) through (a)(12)(i)(*d*) and (a)(12)(ii)(*a*) and (a)(12)(ii)(*b*) of this section." However, the placement of dividers between layers of containers in a still retort system was not a "typical installation or operating procedure" at the time the regulations were published in 1973. The venting procedures in current § 113.40(a)(12) were based on heat penetration studies in retort systems without dividers and may be inadequate when dividers are placed between layers of containers. The dividers may interfere with heat distribution. Therefore, use of venting schedules developed for retorts without dividers may not be appropriate for retorts with dividers because such schedules may not be adequate to ensure that all areas of the retort, and thus all containers in the retort, reach the required processing temperature. FDA is proposing to add the phrase "without divider plates" to the last sentence of § 113.40(a)(12) as follows:

• Some typical installations and operating procedures reflecting the requirements of this section for venting still retorts without divider plates are given in paragraph (a)(12)(i)(*a*) through (a)(12)(i)(*d*) and (a)(12)(ii)(*a*) and (a)(12)(ii)(*b*) of this section.

As required in current § 113.40(a)(12)(iii), other installations and operating procedures, such as still retorts with divider plates, may be used if the processor has evidence, on file, in the form of heat distribution data that its installations and operating procedures accomplish adequate venting of air. Such documentation is likely to include heat distribution studies conducted and documented by the processor to show that the process temperature will be reached with the dividers in place.

7. Screens

Current § 113.40(b)(8) states, in part, "Screens should be installed over all drain openings." Current § 113.40(b)(10)(ii) states, in part, "The suction outlets should be protected with nonclogging screens to keep debris from entering the circulating system." These provisions are intended to advise processors that they are responsible for evaluating their water circulation systems and for ensuring that drain openings and suction outlets do not become clogged and prevent proper water circulation and proper heat distribution. Although the current regulation is expressed as a recommendation, rather than a requirement, processors are responsible for ensuring proper heat distribution during processing and, therefore, must ensure that heat distribution is not hampered by clogged drains or suction outlets. FDA is proposing to revise § 113.40(b)(8) and 113.40(b)(10)(ii) to clarify the requirement, as follows:

• *Drain valve.* A nonclogging, water-tight valve shall be used. A screen shall be installed or other suitable means shall be used on all drain openings to prevent clogging.

• *Water circulation.* When a water circulating system is used for heat distribution, it shall be installed in such a manner that water will be drawn from the bottom of the retort through a suction manifold and discharged through a spreader which extends the length of the top of the retort. The holes in the water spreader shall be uniformly distributed and should have an aggregate area not greater than the cross-section area of the outlet line from the pump. The suction outlets shall be protected with nonclogging screens or other suitable means shall be used to keep debris from entering the circulating system. The pump shall be equipped with a pilot light or other signaling device to warn the operator when it is not running, and with a bleeder to remove air when starting operations. Alternative methods for circulation of water in the retort may be used when established by a competent authority as adequate for even heat distribution.

8. Air Supply and Controls and Water Circulation

FDA is proposing editorial changes to § 113.40(e)(6). At the beginning of the first complete sentence, the word "Means" is changed to "A means" and the sentence was changed from a compound sentence to two simple sentences. FDA also is proposing to renumber § 113.40(e)(6) as § 113.40(e)(6)(i), to read as follows:

• *Air supply and controls.* A means shall be provided for introducing compressed air at the proper pressure and rate. The proper pressure shall be controlled by an automatic pressure control unit. A check valve shall be provided in the air supply line to prevent water from entering the system.

FDA is proposing to revise § 113.40(e)(6) to include requirements for water circulation pressure processing in water in discontinuous agitating water retorts, similar to the requirements in current § 113.40(b)(10)(ii) for pressure processing in water in still retorts. Current § 113.40(b) and (e) both establish equipment and procedures for pressure processing in water. Section 113.40(b) applies to still retorts and § 113.40(e) applies to discontinuous agitating retorts. The retort systems are operationally similar in that they use water under pressure, which must be circulated to ensure appropriate heat distribution. FDA considers the water circulation requirements in § 113.40(b) for still retorts also apply to discontinuous agitating retorts. Because they are basic procedures for assuring even heat distribution when pressure processing in water, FDA currently considers these requirements when evaluating scheduled processes for pressure processing in water in discontinuous agitating retorts. FDA is proposing to clarify the water circulation procedures for pressure processing in water in discontinuous agitating retorts by adding new § 113.40(e)(6)(ii) as follows:

• *Water circulation.* When a water circulating system is used for heat distribution, it shall be installed in such a manner that water will be drawn from the bottom of the retort through a suction manifold and discharged through a spreader which extends the

length of the top of the retort. The holes in the water spreader shall be uniformly distributed and should have an aggregate area not greater than the cross-section area of the outlet line from the pump. The suction outlets shall be protected with nonclogging screens or other suitable means shall be used to keep debris from entering the circulating system. The pump shall be equipped with a pilot light or other signaling device to warn the operator when it is not running, and with a bleeder to remove air when starting operations. Alternative methods for circulation of water in the retort may be used when established by a competent authority as adequate for even heat distribution.

9. Drain Valve and Water Level Indicator

FDA is proposing to revise § 113.40(e) to include requirements for the drain valve and water level indicator in discontinuous agitating water retorts, similar to the requirements in current § 113.40(b)(8) and (b)(9), respectively, for pressure processing in water in still retorts. As previously explained, the retort systems for which equipment and procedures are established § 113.40(b) and (e) are operationally similar in that they use water under pressure. The basic requirements for the drain valve and water level indicator in § 113.40(b) for still retorts also should apply to discontinuous agitating retorts. FDA is proposing to add new § 113.40(e)(7) for drain valve, consistent with proposed, revised § 113.40(b)(8), discussed previously in this document, and is proposing new § 113.40(e)(8) for water level indicator, consistent with proposed, revised § 113.40(b)(9), as follows:

- *Drain valve.* A nonclogging, water-tight valve shall be used. A screen shall be installed or other suitable means shall be used on all drain openings to prevent clogging.
- *Water level indicator.* There shall be a means of determining the water level in the retort during operation, e.g., by using a sensor, gage, water glass, or petcock(s). Water shall cover the top layer of containers during the entire come-up-time and processing periods and should cover the top layer of containers during the cooling periods. The operator shall check and record the water level at intervals sufficient to ensure its adequacy.

Because FDA is proposing new § 113.40(e)(7) and (e)(8), as discussed previously in this document, we also are proposing to renumber current § 113.40(e)(7), relating to critical factors, as § 113.40(e)(9).

10. Temperature-Recording Device Sensors

Current 113.40(g)(1)(i)(*b*) requires that a temperature-recording device shall be installed in the product at the holding-tube outlet between the holding tube and the inlet to the cooler. In addition, to comply with current § 113.40(g)(4), processors must identify where temperature is a critical factor in the scheduled process and must measure and record the temperatures that are critical factors. For example, when processing a non-liquid product or a product that contains solid particles, heat penetration of the solid and liquid portions may vary and the temperature at locations other than the holding-tube outlet may be critical to ensure effective heat penetration throughout the product. Processors must determine each point in the process where temperature is a critical factor for either the solid or liquid portion of the product and must place temperature-recording device sensors at those locations. Thus, processors must determine where temperature measurements are critical, based on the size and texture of particles in the food, and must locate sensors as necessary to ensure that the process temperature is reached and maintained throughout the process. FDA is proposing to clarify the requirement for temperature-recording device sensors by adding the following statement to § 113.40(g)(1)(i)(*b*):

- Additional temperature-recording device sensors shall be located at each point where temperature is specified as a critical factor in the scheduled process.

11. Flow Control

FDA is proposing to revise terminology in § 113.40(g)(1)(i)(*f*) by changing the title of the section from "*Metering pump*" to "*Flow control*" by replacing the terms "metering pump" and "speed adjusting device" with "flow controlling device," and by replacing the term "speed changes" with "flow adjustments." The broad term "flow controlling device" encompasses "metering pump" and "speed adjusting device" as well as other terms that may be used, such as metering device or flow control meter, to describe or identify equipment used to control product flow in the processing system. Similarly, use of the term "flow adjustments" is consistent with and broadly describes the function of flow controlling devices. The proposed revision of the title of the section to "Flow control" is consistent with the terminology changes within the text of proposed § 113.40(g)(1)(i)(*f*).

B. Containers (§ 113.60)

Current § 113.60(a) requires processors to ensure proper closure and to check for closure defects. This responsibility should have extended to postprocess handling. However, current § 113.60(a) does not specifically address postprocess handling and current § 113.60(d) relating to postprocess handling recommends, but does not require, processors to design and operate automatic equipment used in handling filled containers to preserve the can seam and container closure integrity. Container handling equipment, including automated and non-automated equipment, must be of appropriate equipment design and construction, operated to ensure container closure integrity, and replaced or repaired if defective to ensure proper container closure. Otherwise, container handling equipment may be the source of damage to the can seam and may prevent proper seam closure. Improper seam closures may lead to contamination of the previously sterilized product in the can. FDA is proposing to revise § 113.60(d) to change the term "automatic equipment" to "container handling equipment," to clarify that container handling equipment used in handling filled containers shall be designed, constructed, and operated to preserve can seam or other container closure integrity, and to clarify that processors must check and, as necessary, repair or replace the container handling equipment, including conveyors and non-automated equipment, to ensure that they do not damage the containers and container closures as follows:

- *Postprocess handling.* Container handling equipment used in handling filled containers shall be designed, constructed, and operated to preserve the can seam or other container closure integrity. Container handling equipment, including automated and non-automated equipment, shall be checked at sufficient frequency and repaired or replaced as necessary to prevent damage to containers and container closures. When cans are handled on belt conveyors, the conveyors should be constructed to minimize contact by the belt with the double seam, i.e., cans should not be rolled on the double seam. All worn and frayed belting, can retarders, cushions, etc. should be replaced with new nonporous material. All tracks and belts that come into contact with the can seams should be thoroughly scrubbed and sanitized at intervals of sufficient frequency to avoid product contamination.

C. Establishing Scheduled Processes (§ 113.83)

Current § 113.83 states, "The type, range, and combination of variations encountered in commercial production shall be adequately provided for in establishing the scheduled process." Reprocessing of a product and blending a previously processed product into a new formulation are variations that may affect the adequacy of the scheduled process and, therefore, must be carefully evaluated and adequately addressed in the scheduled process. For example, because starch, when heated, is gelatinized, a processed starchy food may have a different viscosity than the same starchy food prior to processing. When a previously processed starchy food is blended or reprocessed, because of physical changes in the characteristics of the food, the scheduled process used for the starchy food prior to processing may not be adequate for the same food after processing. Thus, the scheduled process must be established based on the specific food used as the starting material for each specific process, i.e., when a reprocessed or a previously processed product is blended into a new formulation, the scheduled process must be specific for that situation. FDA is proposing to clarify this requirement by revising § 113.83 to include the statement, "When a product is reprocessed or a previously processed product is blended into a new formulation, this condition must be covered in the scheduled process."

D. Operations in the Thermal Processing Room (§ 113.87)

FDA is proposing to revise § 113.87(c) by inserting the term "accurately" in the first sentence to clarify that "The initial temperature of the contents of the containers to be processed shall be accurately determined and recorded with sufficient frequency to ensure that the temperature of the product is no lower than the minimum initial temperature specified in the scheduled process." FDA is adding this term to emphasize that initial temperature determinations must be accurate, as determined by sufficiently frequent tests of the temperature-indicating device for accuracy against an accurate calibrated reference device. FDA also is proposing to add in § 113.87(c), "The temperature-indicating device used to determine the initial temperature shall be tested for accuracy against an accurate calibrated reference device at sufficient frequency to ensure that initial temperature measurements are accurate. Records of the accuracy tests shall be signed or initialed, dated, and maintained." Although FDA believes it should be understood that initial temperature measurements are expected to be accurate when taken and, therefore, the temperature-indicating device used for initial temperatures must be accurate, the proposed clarifications ensure consistency in interpretation of the requirements of § 113.87(c).

FDA is proposing to revise § 113.87(e) to replace the term "recording-temperature charts" with "temperature-recording device records" to ensure consistency with the changes in terminology relating to the use of the term "charts," discussed previously in this document in changes to proposed revised § 113.40. FDA also is proposing to change the recommendation for clock times to reasonably correspond to the time of the day to a requirement by changing the word "should" to "shall." Correlation of records with the time the records were created and with the time of the processing cycle is essential for evaluating time and temperature correlations of the scheduled process. This revision also is consistent with the requirement of § 113.100(a), "Processing and production information shall be entered at the time it is observed by the retort or processing system operator * * *." Proposed revised § 113.87(e) would read as follows:

- Clock times on temperature-recording device records shall reasonably correspond to the time of day on the written processing records to provide correlation of these records.

E. Processing and Production Records (§ 113.100)

Current § 113.100 identifies requirements for processing and production records. FDA is proposing in § 113.100 to revise terminology, consistent with terminology used in proposed § 113.40. FDA is proposing to replace the term "mercury-in-glass thermometer" with "temperature-indicating device," to replace "recording thermometer" with "temperature-recording device," to replace "metering pump" with "flow controlling device," and to replace "recording thermometer charts" with "temperature-recording device records."

FDA is proposing to revise § 113.100(a)(4) by removing the requirement to maintain records of the product temperature in the final heater outlet as indicted by the temperature recorder-controller in aseptic processing and packaging systems. The temperature in the final heater outlet may not be critical and, therefore, may not require maintenance of records. However, if the final heater outlet temperature is identified as a critical factor in the scheduled process, the temperature must be observed and recorded, as required in § 113.100(a).

FDA is proposing to revise § 113.100(c) by adding the statement, "The records shall be signed or initialed and dated by the reviewer." The current regulation requires that containers closure records shall be signed or initialed by the container closure inspector and reviewed by management, but it does not explicitly state that the person in management who reviews the records must also sign or initial and date the records. FDA is proposing to add this requirement because such documentation is necessary to identify the manager who conducted the review and thus avoid any misunderstandings about who reviewed the record, to verify that the review was conducted by an individual qualified by training and expertise relating to container closures who can accept the records for the processor, to identify the person responsible for ensuring following-up to correct container closure defects, and to indicate that the records have been accepted by the processor.

FDA is proposing to add a new § 113.100(f) to provide for the maintenance of computerized records, in accordance with part 11 (21 CFR part 11). FDA regulations in part 11 set forth FDA criteria for electronic records and signatures. Many low-acid canned food processors currently maintain records on computers. The proposed addition of new § 113.100(f) clarifies and acknowledges that records relating to processing low-acid canned foods may be maintained electronically, provided they are in compliance with part 11.

FDA is proposing to add a new § 113.100(g) to clarify that records required under part 113, or copies of such records, must be readily available during the retention period for inspection and copying by FDA when requested. Proposed § 113.100(g) provides that, in part, "if reduction techniques, such as microfilming, are used, a suitable reader and photocopying equipment must be made readily available to FDA." Access to such records during inspections is needed by FDA field investigators to evaluate compliance with the requirements of part 113. Copies of such records are needed for review by FDA headquarters staff experts who evaluate complex scientific and technical issues associated with processing low-acid canned foods and with compliance with the requirements of part 113.

F. Minor Revisions in Regulations

FDA is proposing to correct typographical errors, revise sentence structure, and make minor clarifying edits in the regulations, as follows:

In proposed § 113.40(a)(4), (a)(8), (b)(10)(i), (c)(5), and (e)(6)(i), we changed compound sentences to simple sentences.

In the first sentence of proposed § 113.40(b)(10)(ii), we changed the word "is" to "it."

In the third sentence of proposed § 113.40(d)(2)(iv), we changed the phrase "bleeder opening emitting steam" to "bleeder that emits steam."

In the second sentence of proposed § 113.40(e)(1)(v), we changed the phrase "in external wells" to "in an external well."

In the fifth sentence of proposed § 113.40(e)(9), we corrected the spelling of "vacuum."

In the first sentence of proposed § 113.40(g)(1)(i)(G), we corrected the spelling of "continuous."

In the third sentence of proposed § 113.100(b), we changed the word "that" to "than."

G. Immediate Implementation of Proposed Rule

FDA believes the proposed revisions to §§ 113.40, 113.60, 113.83, 113.87, and 113.100 will provide industry with flexibility to take advantage of technological advancements associated with temperature-indicating devices and temperature-recording devices, will clarify recordkeeping requirements for temperature-indicating devices and other aspects of processing low-acid canned foods, and will clarify provisions of the current regulations. FDA believes that the proposed rule will ensure that temperature-indicating devices that replace mercury-in-glass thermometers are accurate during processing. FDA also believes the proposed rule allows industry to voluntarily transition from mercury-in-glass thermometers to other temperature-indicating devices and to reduce potential sources of mercury contamination in food processing plants.

FDA believes that some processors are anxious to replace mercury-in-glass thermometers with alternative temperature-indicating devices. Therefore, pending issuance of a final rule, FDA intends to consider the exercise of its enforcement discretion on a case-by-case basis when processors of low-acid canned food elect to replace mercury-in-glass thermometers with alternative temperature-indicating devices in a manner that is consistent with the proposed rule. The act's enforcement provisions commit complete discretion to the Secretary of Health and Human Services (and by delegation to FDA) to decide how and when they should be exercised (see *Heckler* v. *Chaney*, 470 U.S. 821 at 835 (1985); see also *Shering Corp.* v. *Heckler*, 779 F.2d 683 at 685–86 (D.C. Cir. 1985) (stating that the provisions of the act "authorize, but do not compel the FDA to undertake enforcement activity")). Until the agency issues a final rule for temperature-indicating devices for thermally processed low-acid foods packaged in hermetically sealed containers, the agency believes that its exercise of enforcement discretion will provide the needed flexibility to manufacturers who desire to transition to alternative temperature-indicating devices. Processors who choose to use alternative temperature-indicating devices must comply with any revised requirements established in the final rule when the final rule becomes effective.

IV. Analysis of Impacts

A. Preliminary Regulatory Impact Analysis: Flexibility in Permitting Alternative Temperature-Indicating Devices

FDA has examined the impacts of the proposed rule under Executive Order 12866, the Regulatory Flexibility Act (the RFA) (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is not a significant regulatory action as defined by the Executive order.

1. Need for the Regulation

Current regulations for thermally processed low-acid foods in hermetically sealed containers, except for aseptic packaging and processing, require the exclusive use of mercury-in-glass thermometers for indicating temperatures during food processing. The requirement for exclusive use of mercury-in-glass thermometers reflects the absence of alternatives on the market at the time current regulations became effective in 1973. Because of technological advances in thermometry since that time, alternatives to mercury-in-glass thermometers may now be available for the low-acid food industry. Moreover, NIST has developed standards for some alternative temperature-indicating devices and there is little reason to assume that alternatives are any less accurate than mercury-in-glass thermometers, given an appropriate testing regime. We request comments on the possibility that alternative temperature-indicating devices are at least as accurate as mercury-in-glass thermometers, and also that there are appropriate and established testing regimes to assure their accuracy.

Correspondence with industry representatives suggests that the current regulation requiring mercury-in-glass thermometers may be a barrier to innovation (Ref. 3). By allowing the low-acid food industry flexibility to choose alternative temperature-indicating devices, the proposed rule would allow processors to select temperature-indicating devices based on gains to labor productivity and technical considerations. Clarifying provisions in the current regulation would facilitate the voluntary adoption and safe use of alternative temperature-indicating technology, as well as replace outdated terminology.

The potential to improve productivity may be one reason firms may choose to adopt alternatives to mercury-in-glass thermometers. Correspondence with the Food Products Association (FPA) (formerly, National Food Processors Association) suggests that monitoring and analysis capabilities from using alternative temperature-indicating devices may be enhanced (Ref. 3). In addition, the potential to avoid costly remediation of hazardous mercury spills, and growing concerns by State and local governments about the health effects from the accumulation of mercury in the environment, have led to legislation that restricts the sale, manufacture, and distribution of mercury-in-glass thermometers (Ref. 4). For these reasons, FPA correspondence suggests that low-acid food processors are phasing out the use of mercury-in-glass thermometers for all other purposes except those necessary for regulatory compliance.

2. Regulatory Options Considered

Regulatory options considered include:

Option 1—No new regulation.

Option 2—Allow flexibility to use alternative temperature-indicating devices, including mercury-in-glass thermometers, that can be tested against an accurate calibrated reference device in processing low-acid canned foods without an explicit record requirements.

Option 3 (the Proposed Rule)—All of the provisions in option 2 and include explicit recordkeeping requirements for test results and explicit records access requirements for required records.

3. Costs and Benefits of Option 1 (No New Regulation)

There are neither costs nor benefits from the option of no new regulation.

4. Costs and Benefits of Option 2 (Allow the Use of Alternative Temperature-Indicating Devices Without a Record Requirement for Accuracy Tests)

The costs and benefits are estimated separately for the proposed voluntary and mandatory provisions of the rule. The voluntary provision allows low-acid canned food manufacturers to use alternatives to mercury-in-glass thermometers as temperature-indicating devices. In option 2, the mandatory provisions are considered to be clarifications of the current regulation and are primarily intended to facilitate the voluntary adoption and safe use of alternative temperature-indicating technologies. Option 2 does not consider requirements for low-acid canned food manufacturers to establish and maintain records on accuracy tests necessary to ensure that each temperature-indicating device, including each mercury-in-glass thermometer, and each reference device is accurate during processing. Nor does option 2 consider requirements for FDA access to such records upon inspection.

There are no compliance costs from allowing alternative temperature-indicating devices. The benefits from allowing alternative temperature-indicating devices are from any reduction of the risk of foodborne illness that results from the use of alternative temperature-indicating devices, the avoided cleanup and disposal costs resulting from breaking mercury-in-glass thermometers during non-production times, and the increase in labor productivity at low-acid canned food manufacturers.

a. *Costs from permitting the use of alternative temperature-indicating devices.* The proposed regulation permits, but does not require, low-acid food manufacturers to adopt alternatives to mercury-in-glass thermometers. Thus, costs associated with choosing an alternative to mercury-in-glass thermometers are voluntarily incurred. These costs would be incurred only if the expected private benefits from doing so are higher than the costs. To show our estimation method and solicit comments, we specify the determinants of the costs of alternative temperature-indicating devices.

Higher purchase prices and maintenance costs may influence a firm's decision to use alternative temperature-indicating devices. Correspondence with FPA suggests that most digital alternatives are slightly more expensive than mercury-in-glass thermometers (Ref. 3). According to FPA, after installation, there are no significant differences in maintenance costs during normal operations between mercury-in-glass thermometers and alternative temperature-indicating devices (Ref. 3). Thus, the higher cost would be a one-time capital cost. FPA also suggests that many firms are using alternative temperature-indicating device technology for purposes that are beyond the scope of the low-acid food regulations (Ref. 3). This implies that the productivity gains from their adoption are greater than the higher purchase prices.

Temperature-indicating devices must be tested against an accurate calibrated reference device, including tests relating to relevant factors such as electromagnetic interference and environmental conditions. Environmental conditions may affect the accuracy of mercury-in-glass thermometers. Thus, low-acid food manufacturers have experience with understanding and controlling these factors to ensure that mercury-in-glass thermometers are accurate and function properly during processing. Tests to ensure that alternative temperature-indicating devices are not susceptible to electromagnetic interference may result in higher costs for testing and maintaining the devices.

FPA suggests that many companies already use alternative temperature-indicating devices for unregulated purposes, and that the use of mercury-in-glass thermometers in these establishments is restricted to regulatory compliance purposes (Ref. 3). In the event that alternative temperature-indicating devices currently used by industry for unregulated purposes are tested against an accurate calibrated reference device, the experience of their use for the unregulated purpose would likely mitigate any additional learning, or adjustment costs for their testing. Nevertheless, one-time adjustment costs are likely to be incurred by all low-acid canned food manufacturers that adopt alternative temperature-indicating device technology—especially early adopters of such technology—as they adjust to new testing protocols and appropriate testing frequencies. FDA assumes that, after testing protocols and frequencies are established, the testing costs will be comparable to those required for testing mercury-in-glass thermometers. FDA requests comments on the magnitude of the costs (if any) associated with learning about and adjusting to testing requirements for alternative temperature-indicating devices, as well as our assumption that testing costs for alternative temperature-indicating devices, subsequent to the initial establishment of testing protocols, are comparable to those for mercury-in-glass thermometers.

Finally, we assume that firms able to achieve gains in labor productivity and reduce remediation costs will phase in alternative temperature-indicating devices. One firm predicted that alternative temperature-indicating devices will be chosen for all new purchases immediately following issuance of the final rule, and that the total period for transition from mercury-in-glass thermometers to alternative temperature-indicating devices will be 5 years (Ref. 3). FDA assumes that all mid-sized and large low-acid canned food manufacturers will adopt alternative temperature-indicating device technology within 5 years after issuance of the final rule. We request comments on this assumption.

b. *Benefits from permitting the use of alternative temperature-indicating devices.*

Changes in the Risk of Foodborne Illness

The Centers for Disease Control and Prevention (CDC) report that there were 20 cases of foodborne botulism and 76 cases of infant botulism in the United States in 2003 (Ref. 5). There have been no reported cases of foodborne botulism associated with commercially canned low-acid food in recent years. CDC reported one case of botulism from food eaten at a restaurant and one case from food eaten at an unknown location in 1994, but home-canned food and Alaska Native foods consisting of fermented seafood are currently the principal sources of foodborne botulism (Ref. 5). The risk factors for infant botulism, including from food and non-food sources, remain largely unknown.

Although cases of botulism are mostly associated with food prepared or canned at home, a change to inaccurate or improperly functioning temperature-indicating devices by low-acid canned food manufacturers could potentially increase the risk of foodborne botulism. Increased risk of botulism associated with new technology could result from increased risk of device errors for indicating and recording temperatures, or an increased risk of human errors in reading alternative temperature-indicating devices. An increased risk of illness could accompany an increased risk of such errors that lead to food

being processed at unsafe low temperatures.

To acknowledge the potential for increased risk associated with the adoption of alternative technologies mentioned previously in this document, this proposed rule requires alternative temperature-indicating devices to be tested for accuracy against an accurate calibrated reference device. The proposed rule also requires tests relating to relevant factors such as electromagnetic interference and environmental conditions. Alternatives to the mercury-in-glass thermometer that meet NIST requirements are currently available to the industry and we assume that such technology is at least as accurate as mercury-in-glass thermometers given an appropriate testing regime.

There may be a period of learning and adjustment to the new temperature-indicating technology for a short period immediately following its adoption, during which the risk of inaccurate measurement may be temporarily elevated. We assume that the frequency of testing for accuracy during this adjustment period may increase for a short time to compensate for any increased risk of inaccurate measurement from the new technology. Consequently, we assume that any increases in risk during the adjustment period will be fully mitigated through appropriate or increased testing. We request comments on this assumption.

An increase in risk of illness could arise from an increase in human error in reading the alternative temperature-indicating device. However, we assume that the alternatives to the mercury-in-glass thermometer are likely to be no more difficult to read than mercury-in-glass thermometers. Thus, we expect no increase in the number of reading errors. Some alternative temperature-indicating devices may have a digital display of the temperature and may be easier to read than mercury-in-glass thermometers. However, there is also the possibility that certain digital displays with poor resolution may facilitate reading errors. In addition, the magnitude of a reading error from a digital display may be different than that from a mercury-in-glass thermometer. The relative risk of misreading a digit displayed in the "tens" and "ones" columns may be different for digital displays compared to the conventional mercury-in-glass thermometers. Although we assume no increase in the risk of reading errors for digital devices, we request comments on this assumption.

Avoided Cleanup Costs

The principal benefit from allowing flexibility in the use of temperature-indicating device technology by low-acid canned food manufacturers is the reduced risk of cleanup and disposal costs resulting from breaking mercury-in-glass thermometers during non-production times (e.g., calibration, equipment maintenance, storage). Disposal and cleanup costs for mercury spills and damaged mercury-in-glass thermometers can be high. FPA estimates the cost of environmental disposal of mercury-in-glass thermometers to be about $500 (Ref. 3). Examples of cleanup costs provided by the Northeast Waste Management Officials' Association include the $6,000 cleanup costs paid by a school following the breakage of 12 thermometers (Ref. 6), or approximately $500 per thermometer. According to Harvard University Operations Services, mercury spills involving thermometer breakage are one of the most common accidents involving laboratory equipment, with cleanup costs of approximately $110 per thermometer (Ref. 7).

Mercury-in-glass thermometer breakage can occur within the processing plant during calibration, equipment maintenance, storage, and other non-production times. Because we do not have accident data from processors, we estimate mercury-in-glass thermometer breakage rates using information on accident rates involving laboratory equipment. According to a 2004 bulletin published by the Lawrence Berkeley Laboratory, the annual number of laboratory accident rates for 2002, 2003, and 2004 was 2.17, 2.51, and 1.25 per 100 employees (respectively), for an annual average of approximately 2 per 100 employees (Ref. 8).

Using 2002 U.S. Economic Census data on the number of employees in the low-acid canned food industry, we extrapolated the laboratory accident rates reported previously in this document. There were reported to be 78,016 employees in the canned food industry (North American Industry Classification System (NAICS) codes 311421, 311422, and 311514 for fruits and vegetables canning, specialty canning, and seafood canning) in 2002 (Ref. 9). We assume that half of all employees of canning manufacturers are involved in the manufacturing process. We further assume that half of the employees involved in the manufacturing process will come into direct contact with mercury-in-glass thermometers at some point during the performance of their jobs. This yields an estimate of 19,504 employees of low-acid canned food manufacturers that come into direct contact with temperature-indicating devices.

Based on the laboratory accident rates reported previously, we estimate that there are approximately 390 manufacturing process related accidents per year (i.e., (19,504 / 100) x an accident rate of 2) in the low-acid canned food industry. We assume that half of these accidents involve equipment that comes directly in contact with mercury-in-glass thermometers, and half of those, or approximately 100, involve mercury-in-glass thermometer breakage and require remediation in the form of cleanup and disposal.

We estimate that all large and mid-sized low-acid canned food manufacturers will adopt alternative temperature-indicating device technology because of the potential savings in cleanup costs as well as the potential for increased productivity made possible from alternative temperature-indicating devices. There currently are approximately 1,100 domestic and 5,600 foreign-based low-acid canned food manufacturers registered with FDA that supply the domestic market (Ref. 10). Because that data does not include firm size information, we estimate the proportion of large and mid-sized domestic low-acid canned food manufacturers using U.S. Economic Census data, and assume the same proportions of large and mid-sized foreign firms as well.

Based on the 2002 U.S. Economic Census there were a total of 1,051 fruit and vegetable, specialty canning, and dry, condensed, and evaporated dairy product manufacturing establishments reported for NAICS codes 311421, 311422, and 311514, and that large and mid-sized establishments (i.e., establishments with more than 19 employees) comprise approximately half of the total. Consequently, we estimate that if half of the low-acid food manufacturers were to discontinue use of mercury-in-glass thermometers as provided in the proposed rule, approximately 50 domestic accidents per year involving mercury-in-glass thermometers would be avoided (i.e., 100 accidents divided by 2 for large and mid-sized establishments) and 255 foreign-based accidents per year involving mercury-in-glass thermometers would be avoided (i.e., 100 accidents, scaled by the ratio of foreign to domestic firms, 5,600 / 1,100, and divided by 2 for large and mid-sized firms) that would otherwise incur cleanup and disposal costs during non-production times. Implicit in this estimate is the assumption that the accident rates for domestic and foreign-based manufacturers are the same. We request comments on this assumption.

We assume that each accident involves one mercury-in-glass thermometer. In addition, we assume that cleanup and remediation costs per accident are the same for foreign-based and domestic low-acid canned food manufacturers. Consequently, we estimate that after half of the low-acid canned foods manufactures adopt alternative temperature-indicating device technology, between $5,500 and $25,000 in remediation costs (i.e., 50 accidents x $110, and 50 accidents x $500) would be averted by domestic manufacturers, and between $25,000 and $127,000 in remediation costs (i.e., 255 accidents x $110, and 255 accidents x $500, rounded to the nearest thousand) would be averted by foreign-based manufacturers. Total remediation costs averted would be between $30,500 and $152,000.

Increased Productivity from Allowing Alternative Technologies

We use U.S. Department of Labor estimates of changes in labor productivity from 1995 to 2004 to estimate the savings to large, mid-sized, and small firms from improved temperature monitoring and recordkeeping productivity that may result from using alternative, temperature-indicating devices. We assume that cost savings and increases in labor productivity from adopting alternative temperature-indicating technology would be the same for domestic and foreign-based firms of similar size.

We computed the average of the U.S. Department of Labor quarterly estimates of the percent change in quarterly output per hour (expressed in annual terms) in the non-farm business sector over the 10-year period from 1996 through 2005 to be 2.8 percent (Ref. 11). We estimated that productivity gains to labor engaged in monitoring temperature sensitive processes by low-acid canned food manufacturers that adopt alternative temperature-indicating technology would be 2.8 percent as well.

We assume that monitoring temperature sensitive processes requires the equivalent of one full time job at large establishments, half a full time job at mid-sized establishments, and one quarter of a full time job at small establishments. We doubled the mean hourly wage of $13.55 for production labor in 2002, obtained from the Bureau of Labor Statistics (Ref. 12), to account for overhead costs and estimated that adopting new temperature-indicating technology could increase labor productivity by as much as $0.76 per hour (i.e., 2.8 percent x $27.10) at large establishments, $0.38 per hour at mid-sized establishments (i.e., 2.8 percent divided by 2 x $27.10), and $0.19 per hour at small establishments (i.e., 2.8 percent divided by 4 x $27.10).

5. Costs and Benefits of Option 3, the Proposed Rule (Option 2 With Added Recordkeeping and Records Access Requirements)

a. *Costs of the recordkeeping and records access requirements.* The current low-acid food regulations recommend, but do not require, that records of thermometer accuracy checks that specify date, standard used, method used, and person performing the test be maintained. The proposed rule requires, rather than recommends, maintenance of written documentation of the accuracy of the temperature-indicating device, and also written documentation of the accuracy of the reference device. The proposed rule also requires that each temperature-indicating device and reference device have a tag, seal, or other means of identity that can be referenced in the required records as the identity of the device. These proposed recordkeeping requirements apply to mercury-in-glass thermometers as well as alternative temperature-indicating devices and reference devices. Additional costs associated with the proposed revised recordkeeping requirements may be incurred for all temperature-indicating devices and reference devices.

The costs of the requirement to establish and maintain records are the setup costs required to design and establish a form for recording the required information, and the additional labor requirements needed to record the information. In addition, there will be one-time costs for training employees to comply with the requirement. We assume that one to two accuracy tests will be performed per year per device and that only a small number of forms would need to be designed. Thus, the setup costs for the recordkeeping requirement would be minimal. Moreover, we assume that the current recordkeeping practice is to maintain most, if not all, of these records and that the additional one-time training costs would be minimal as well.

We assume that additional labor costs to record the required information will be small because the current regulations recommend maintaining similar records. Thus, we assume that the current practice is to keep track of most, if not all, of the information required by the proposed rule. However, we request comments on this assumption.

Current incentives to track accuracy and performance of mercury-in-glass thermometers may vary across the industry, and information that is currently generated during accuracy tests may not be permanently recorded, as required under this proposed rule. Thus, we assume there will be labor costs incurred from this proposed rule to record information that is currently generated, but not recorded. We assume that half of the industry currently does not have sufficient incentive to track the performance of the temperature-indicating devices necessary to permanently record all of the required information. We further assume that current practice by these firms is to leave unrecorded one to four separate pieces of information required under the proposed rule, and that each piece of information takes between 10 and 15 seconds to permanently record. Consequently, we estimated that half of all low-acid canned food manufacturers would spend between 10 seconds and 1 minute (i.e., 1 x 10 seconds and 4 x 15 seconds) per device, recording information required in the proposed rule that is currently unrecorded.

We estimated the number of temperature-indicating devices that would be subject to recordkeeping requirements using the results of a survey of the low-acid canned food industry conducted by FDA and published in 1994 (Ref. 13). Findings from that survey indicate that the number of mercury-in-glass thermometers found at establishments ranged from 1 to 65, with only 4 percent of establishments having more than 30 thermometers, and 67 percent having fewer than 10. Assuming the number of thermometers is uniformly distributed between 1 and 10 for 67 percent of establishments, between 11 and 30 for 29 percent of establishments, and between 31 and 65 for 4 percent of establishments, we estimated a weighted average of about 10 thermometers per establishment (i.e., 67 percent x 5.5 + 29 percent x 15.5 + 4 percent x 48 rounded to the nearest integer).

Based on the findings from this study, we estimated that low-acid canned food establishments use an average of 10 devices annually, for a total number of 33,500 thermometers with accuracy test results that are currently not fully recorded (i.e., 1/2 x 6,700 establishments x 10 thermometers) as required in the proposed rule. We assume that each device requires one to two tests per year (for a mean of 1.5), and estimated the total burden for the industry for recording the required test result information to be between 140 hours and 838 hours per year (i.e., 33,500 thermometers x 10 seconds x 1.5 tests / 3,600 seconds per hour, and

33,500 thermometers x 60 seconds x 1.5 tests / 3,600 seconds per hour). Doubling the $13.55 mean hourly wage for production labor for 2002 from the Bureau of Labor Statistics (Ref. 11) to account for overhead costs, we computed the labor cost of recording accuracy test information required in this proposal to be between $3,800 and $22,700, rounded to the nearest hundred.

The costs of the requirement to allow FDA access to records documenting the accuracy of both temperature-indicating devices and reference devices include the costs of document retrieval and reproduction, as well as time spent with FDA investigators prior to, and immediately following, these activities. We assume these costs would be incurred once per year with a regular facility inspection, as well as irregularly during outbreak investigations. We assume the costs from the records access requirements would be incurred by a small number of firms that currently fail to permit FDA access to records under the current regulation.

b. *Benefits of the recordkeeping and records access requirements.* The benefits from the proposed recordkeeping and records access requirements are derived from the enhanced ability by manufacturers to track critical accuracy and performance data for temperature-indicating devices which may improve safety, as well as the ability by FDA to determine compliance with the recordkeeping requirements. Although we believe that maintenance of these records is the current industry practice, the explicit requirement in this proposed rule may increase the incentive for industry compliance with records requirements, including those related to the testing of temperature-indicating devices and reference devices, and may increase the frequency with which testing occurs. The benefits from requiring maintenance of accuracy testing records may be particularly high during the transition period following the adoption of alternative temperature-indicating devices if they are useful for learning about the performance characteristics and required testing protocols.

FDA's experience is that most manufacturers currently permit access to temperature-indicating device test results and other records under the current regulation, and we expect the benefits of the records access requirement from improving regular inspections to be small. However, the records access requirement may provide benefits from any accompanying increase in incentives to test alternative temperature-indicating devices for accuracy that might result due to concern by a manufacturer with being in compliance with the testing requirement. Additional incentives for testing for accuracy may be particularly important during a transition period when knowledge about alternative temperature-indicating device performance characteristics may be uncertain.

In addition, there may be benefits from any increase in the degree of certainty that a manufacturer will comply with a records access request, particularly during an outbreak investigation when records of test results may be essential to determine the cause of the outbreak. However, any increase in the incentives to test alternative temperature-indicating devices for accuracy, and also in the degree of certainty that a manufacturer will comply with a records access request, may be smaller for foreign-based manufacturers compared with domestic manufacturers. This may be true if foreign-based manufacturers export their products to buyers based not only in the United States, but also in countries that do not require the maintenance and access to records documenting the accuracy of temperature-indicating device technology. Under such circumstances foreign-based low-acid canned food manufacturers may choose to sell their products in other countries rather than comply with FDA records requirements. We request comments on the possibility that the incentives for maintaining records by foreign-based low-acid canned food manufacturers that export to the United States are smaller than those for domestic manufacturers.

6. Summary

In summary, the proposed rule provides flexibility by permitting alternative temperature-indicating devices without increasing public health risks from low-acid foods. In addition, the proposed rule may result in additional or more frequent testing of alternative temperature-indicating devices, which may be particularly useful for evaluating device performance. The setup costs for designing new forms for recording the required accuracy test information and the one-time training costs are assumed to be minimal. The recurring additional labor costs are estimated to be between $3,800 and $22,700.

The avoided mercury cleanup costs from broken mercury-in-glass thermometers, and also the potential for enhanced labor productivity from adopting alternative temperature-indicating device technology, may be substantial. We estimate that avoided cleanup costs from broken mercury-in-glass thermometers will be between $30,500 and $152,000 if all large and medium sized low-acid food firms adopt alternative temperature-indicating devices. Table 1 of this document summarizes the costs and benefits of the proposed rule, rounded to the nearest thousand.

TABLE 1.—A SUMMARY OF THE COSTS AND BENEFITS OF THE PROPOSED RULE

Description	Impact
One-time Costs	
Design of new record-keeping forms	minimal
Recordkeeping training	minimal
Recurring Costs	
Recordkeeping	$5,000–$23,000
Records access (incurred by a small number of firms that currently fail to permit FDA access)	minimal
Purchase and additional testing of alternative devices	voluntarily incurred
Benefits	
Change in risk from low-acid canned foods	no change
Avoided mercury cleanup costs	$31,000–$152,000
Enhanced labor productivity	not quantified, but may be substantial

B. Regulatory Flexibility Analysis

The RFA requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. The agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities.

FDA has examined the economic implications of this proposed rule as required by the RFA. If a rule has a significant economic impact on a substantial number of small entities, the RFA requires agencies to analyze regulatory options that would lessen the economic effect of the rule on small entities. The voluntary provisions of this proposed rule would not generate any compliance costs for any small entities because they do not require small entities to undertake any new activity. A small business will not

choose alternative temperature-indicating device technology unless it believes that doing so will increase private benefits by more than it increases private costs.

The per-firm costs of the mandatory recordkeeping requirement of this proposed rule will be small. The additional labor costs from the recordkeeping requirements are estimated to be between $3,800 and $22,700 or between approximately $1.00 and $4.00 per firm (i.e., $3,800 / 6,700 firms and $22,700 / 6,700 firms, rounded up). Moreover, costs for small firms will be at the lower end of this range since they will have fewer temperature-indicating devices and reference devices to test. We assume the costs from the records access requirement would be small and incurred by a small number of firms that currently fail to grant FDA access to records under the current regulation. Accordingly, FDA certifies that this proposed rule will not have a significant impact on a substantial number of small entities. Under the RFA, no further analysis is required.

C. Unfunded Mandate Analysis

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing "any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year." The current threshold after adjustment for inflation is $122 million, using the most current (2005) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this proposed rule, if finalized, to result in any 1-year expenditures that would meet or exceed this amount and has determined that this proposed rule does not constitute a significant rule under the Unfunded Mandates Reform Act of 1995.

V. Environmental Impact

The agency has determined under 21 CFR 25.30(j) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Paperwork Reduction Act

This proposed rule contains information collection provisions that are subject to review by OMB under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520). A description of these provisions is given in the following paragraphs with an estimate of the annual recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

FDA invites comments on the following topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Recordkeeping Requirements for Temperature-Indicating Devices

Description: The information proposed to be collected contains the results of tests of the accuracy of temperature-indicating devices used by low-acid food firms. Much of this information is currently generated from the accuracy "checks" recommended under current regulations, and some of it may not be permanently recorded as required under this proposed rule.

Current low-acid food regulations recommend that records of thermometer accuracy checks that specify date, reference device used, method used, and person performing the test be maintained. The proposed rule requires maintenance of written documentation of the accuracy of the temperature-indicating device and also written documentation of the accuracy of the reference device. The required documentation of accuracy is necessary to track the performance of devices, and may be particularly important for new temperature-indicating device technology during the transition period following its adoption. By requiring permanent records of the accuracy test results, manufacturers may have incentive to test temperature-indicating devices for accuracy more frequently than they would under the current regulations.

Description of Respondents: All commercial low-acid canned food processors. Based on FDA low-acid canned food manufacturers' registration data, we estimate that there are approximately 6,700 low-acid canned food processing establishments.

Burden: The costs of the recordkeeping requirement are the setup costs required to design and establish a form for recording the required information, and the additional labor requirements needed to record the information. The initial setup costs for designing a new record form are assumed to be minimal since only one to two accuracy tests will be performed on an average of 10 devices per firm.

We assume that labor costs to record the required information will be small because current practice is to keep track of most, if not all, of this information. Because current incentives to track accuracy of mercury-in-glass thermometers may vary across the industry, information that is currently generated during accuracy tests may not be permanently recorded as required under the proposed rule. Thus, we assume there will be labor costs incurred from this proposed rule to record information that is currently generated, but not recorded.

We assume that half of the industry currently does not have sufficient incentive to track the performance of the temperature-indicating devices and reference devices necessary to permanently record all of the required information. We further assume that current practice by these firms is to leave unrecorded one to four separate pieces of information required under the proposed rule, and that each piece of information takes between 10 and 15 seconds to permanently record. Consequently, we estimate that half of all low-acid canned food manufacturers would spend between 10 seconds and 1 minute (i.e., 1 x 10 seconds and 4 x 15 seconds) per device, recording information required in the proposed rule.

Based on a survey conducted by FDA between 1992 and 1993, we estimate that low-acid food firms use an average of 10 devices, including reference devices. We estimate that 3,350 low-acid canned food manufacturers currently do not fully record the accuracy test results required by the proposed rule. We assume that each device requires one to two tests per year (midpoint of 1.5 tests per year). We estimate the annual frequency per recordkeeping to be 15 (i.e., 10 devices x 1.5 tests per year). We estimate the burden for recording the additional information to be between 10 and 60 seconds per device (midpoint of 35 seconds or 0.0097 hours per device). Table 2 of this document reports the

average annual burden described previously in this document.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Record	Total Hours
113.40(a)(1), (b)(1), (c)(1), (d)(1), (e)(1), and (f)(1)	3,350	15	50,250	0.0097	487

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

In compliance with the PRA (44 U.S.C. 3507(d)), the agency has submitted the information collection provisions of this proposed rule to OMB for review. Interested persons are requested to send comments regarding information collection to OMB (see **DATES** and **ADDRESSES**).

VII. Federalism

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. We have determined that the proposed rule does not contain policies that have substantial direct effects on States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, we have tentatively concluded that the proposed rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

VIII. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IX. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday. FDA has verified the Web site addresses, but is not responsible for subsequent changes to the Web sites after this document publishes in the **Federal Register**.

1. Heymann, David L., "Control of Communicable Diseases," 18th ed., 2004, An Official Report of the American Public Health Association, American Public Health Association, Washington, DC, p. 612, 2001.

2. *International Vocabulary of Basic and General Terms in Metrology (VIM)*, BIPM, IEC, IFCC, ISO, IUPAC, IUPAP, OIML, 2d ed., p. 47, definition 6.10, 1993.

3. Letter from Sia Economides, FPA, to Mischelle Ledet, FDA, August 23, 2004.

4. Smith, Brandie, *King County Passes Mercury Thermometer Sales Ban*, Washington Free Press, #63, May/June 2003, accessed online January 25, 2007, at *http://www.washingtonfreepress.org/63/kingCountyPassesMercury.htm*.

5. CDC, "Summary of Notifiable Diseases—United States, 2003," *Morbidity and Mortality Weekly Report*, April 22, 2005, accessed online January 25, 2007, at *http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5254a1.htm*.

6. Great Lakes Regional Pollution Prevention Roundtable, "Mercury-Thermometers: Spills," Mercury-Thermometer Topic Hub, Northeast Waste Management Officials' Association, accessed online January 25, 2007, at *http://www.glrppr.org/hubs/subsection.cfm?hub=101&subsec=17&nav=17*, last updated July 13, 2006.

7. University Operations Services, Harvard University Web site, accessed online January 25, 2007, at *http://www.uos.harvard.edu/ehs/onl_fac_env_mer.shtml*.

8. "Accident Prevention Urged for Final Weeks of Fiscal Year '04," *Today at Berkeley Lab—Friday, August 27, 2004*, accessed online January 25, 2007, at *http://www.lbl.gov/today/2004/Aug/27-Fri/safety_page.html*.

9. U.S. Census Bureau, "2002 Economic Census", accessed online January 25, 2007, at *http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-ds_name=EC0231I3&-_lang=en*.

10. FDA/Center for Food Safety and Applied Nutrition, "Acidified and Low-Acid Canned Food Registration Data," December 2005.

11. U.S. Department of Labor, Bureau of Labor Statistics, Output Per Hour—Non-farm Business Productivity—PRS85006092, accessed online January 25, 2007, at *http://data.bls.gov/cgi-bin/surveymost?bls*.

12. U.S. Department of Labor, Bureau of Labor Statistics, accessed online January 25, 2007, at *ftp://ftp.bls.gov/pub/news.release/History/ocwage.11192003.news*.

13. Stringer, L.W., Proceedings of *Advances in Instrumentation and Control*, Vol. 49, part 2, pp. 715–723, 1994.

List of Subjects in 21 CFR Part 113

Food packaging, Foods, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 113 be amended as follows:

PART 113—THERMALLY PROCESSED LOW-ACID FOODS PACKAGED IN HERMETICALLY SEALED CONTAINERS

1. The authority citation for 21 CFR part 113 continues to read as follows:

Authority: 21 U.S.C. 342, 371, 374; 42 U.S.C. 264.

2. Revise § 113.40 to read as follows:

§ 113.40 Equipment and procedures.

(a) *Equipment and procedures for pressure processing in steam in still retorts*—(1) *Temperature-indicating device.* Each retort shall be equipped with at least one temperature-indicating device that accurately indicates the temperature during processing. Temperature-indicating devices shall be tested for accuracy against an accurate calibrated reference device by appropriate standard procedures, upon installation and at least once a year thereafter, or more frequently if necessary, to ensure accuracy during processing. Each temperature-indicating device and reference device shall have a tag, seal, or other means of identity.

(i) The design of the temperature-indicating device shall ensure that the accuracy of the device is not affected by electromagnetic interference and environmental conditions.

(ii) Written documentation of the accuracy of the temperature-indicating device and the reference device shall be established and maintained.

(A) Documentation of the accuracy of the temperature-indicating device shall include a reference to the tag, seal, or other means of identity used by the processor to identify the temperature-indicating device, the name of the manufacturer of the temperature-indicating device, the identity of the reference device used for the accuracy test and of equipment and procedures

used to adjust or calibrate the temperature-indicating device, the date and results of each accuracy test, the name of the person or facility that performed the accuracy test and adjusted or calibrated the temperature-indicating device, and the date of the next scheduled accuracy test.

(B) Documentation of the accuracy of the reference device shall include a reference to the tag, seal, or other means of identity used by the processor to identify the reference device, the name of the manufacturer of the reference device, the identity of the equipment and procedures used to test the accuracy and to adjust or calibrate the reference device, the identity of the person or facility that performed the accuracy test and adjusted or calibrated the reference device, the date and results of the accuracy test, and the traceability information. Documentation of the traceability information for the reference device may be in the form of a guaranty of accuracy from the manufacturer of the reference device or a certificate of calibration from a laboratory.

(iii) A temperature-indicating device that is defective or cannot be adjusted to the accurate calibrated reference device shall be repaired or replaced before further use.

(iv) A temperature-indicating device shall be easily readable to 1 °F (0.5 °C). The temperature range of a mercury-in-glass thermometer shall not exceed 17 °F per inch (4 °C per centimeter) of graduated scale. A mercury-in-glass thermometer that has a divided mercury column shall be considered defective.

(v) Each temperature-indicating device shall be installed where it can be accurately and easily read. The sensor of the temperature-indicating device shall be installed either within the retort shell or in external wells attached to the retort. External wells or pipes shall be connected to the retort through at least a 3/4-inch (2 centimeters) diameter opening and equipped with a 1/16-inch (1.5 millimeters) or larger bleeder opening so located as to provide a full flow of steam past the length of the temperature-indicating device sensor. The bleeders for external wells shall emit steam continuously during the entire processing period. The temperature-indicating device—not the temperature-recording device—shall be the reference instrument for indicating the processing temperature.

(2) *Temperature-recording device.* Each retort shall have an accurate temperature-recording device that records temperatures to a permanent record, such as a temperature-recording chart.

(i) *Analog or graphical recordings.* Temperature-recording devices that create analog or graphical recordings may be used. Temperature-recording devices that record to charts shall be used only with the appropriate chart. Each chart shall have a working scale of not more than 55 °F per inch (12 °C per centimeter) within a range of 20 °F (10 °C) of the process temperature. Chart graduations shall not exceed 2 °F (1 °C) within a range of 10 °F (5 °C) of the process temperature. Temperature-recording devices that create multipoint plottings of temperature readings shall record the temperature at intervals that will assure that the parameters of the process time and process temperature have been met.

(ii) *Digital recordings.* Temperature-recording devices, such as data loggers, that record numbers or create other digital records may be used. Such a device shall record the temperature at intervals that will assure that the parameters of the process time and process temperature have been met.

(iii) *Adjustments.* The temperature-recording device shall be adjusted to agree as nearly as possible with, but to be in no event higher than, the temperature-indicating device during the process time. A means of preventing unauthorized changes in adjustment shall be provided. A lock or a notice from management posted at or near the temperature-recording device that provides a warning that only authorized persons are permitted to make adjustments is a satisfactory means of preventing unauthorized changes.

(iv) *Temperature controller.* The temperature-recording device may be combined with the steam controller and may be a recording-controlling instrument. The temperature-recording device sensor shall be installed either within the retort shell or in a well attached to the shell. Each temperature-recording device sensor well shall have a 1/16-inch (1.5 millimeters) or larger bleeder which emits steam continuously during the processing period. Air-operated temperature controllers should have adequate filter systems to ensure a supply of clean, dry air.

(3) *Pressure gages.* Each retort should be equipped with a pressure gage that should be graduated in divisions of 2 pounds per square inch (13.8 kilopascals) or less.

(4) *Steam controller.* Each retort shall be equipped with an automatic steam controller to maintain the retort temperature. This may be a recording-controlling instrument when combined with a temperature-recording device. The steam controller may be air-operated and actuated by a temperature sensor positioned near the temperature-indicating device in the retort. A steam controller activated by the steam pressure of the retort is acceptable if it is carefully maintained mechanically so that it operates satisfactorily.

(5) *Steam inlet.* The steam inlet to each still retort shall be large enough to provide sufficient steam for proper operation of the retort. Steam may enter either the top portion or the bottom portion of the retort but, in any case, shall enter the portion of the retort opposite the vent; for example, steam inlet in bottom portion and vent in top portion.

(6) *Crate supports.* A bottom crate support shall be used in vertical still retorts. Baffle plates shall not be used in the bottom of still retorts.

(7) *Steam spreaders.* Steam spreaders are continuations of the steam inlet line inside the retort. Horizontal still retorts shall be equipped with steam spreaders that extend the length of the retort. For steam spreaders along the bottom of the retort, the perforations should be along the top 90° of this pipe, that is, within 45° on either side of the top center. Horizontal still retorts over 30 feet (9.1 meters) long should have two steam inlets connected to the spreader. In vertical still retorts, the steam spreaders, if used, should be perforated along the center line of the pipe facing the interior of the retort or along the sides of the pipe. The number of perforations should be such that the total cross-sectional area of the perforations is equal to 1.5 to 2 times the cross-sectional area of the smallest restriction in the steam inlet line.

(8) *Bleeders.* Bleeders, except those for temperature-indicating device wells, shall be 1/8-inch (3 millimeters) or larger and shall be wide open during the entire process, including the come-up-time. For horizontal still retorts, bleeders shall be located within approximately 1 foot (30.5 centimeters) of the outermost locations of containers at each end along the top of the retort. Additional bleeders shall be located not more than 8 feet (2.4 meters) apart along the top. Bleeders may be installed at positions other than those specified in this paragraph, as long as there is evidence in the form of heat distribution data that they accomplish adequate removal of air and circulation of steam within the retort. Vertical retorts shall have at least one bleeder opening located in that portion of the retort opposite the steam inlet. In retorts having top steam inlet and bottom venting, a bleeder shall be installed in the bottom of the retort to remove condensate. All bleeders shall be arranged so that the operator can

observe that they are functioning properly.

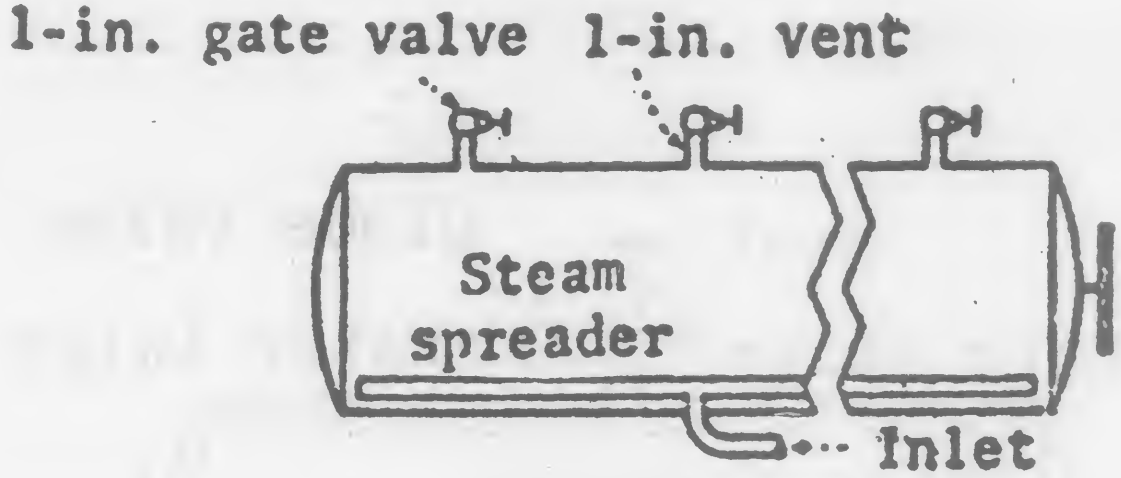
(9) *Stacking equipment and position of containers.* Crates, trays, gondolas, etc., for holding containers shall be made of strap iron, adequately perforated sheet metal, or other suitable material. When perforated sheet metal is used for the bottoms, the perforations should be approximately the equivalent of 1-inch (2.5 centimeters) holes on 2-inch (5.1 centimeters) centers. If dividers are used between the layers of containers, they should be perforated as stated in this paragraph. The positioning of containers in the retort, when specified in the scheduled process, shall be in accordance with that process.

(10) *Air valves.* Retorts using air for pressure cooling shall be equipped with a suitable valve to prevent air leakage into the retort during processing.

(11) *Water valves.* Retorts using water for cooling shall be equipped with a suitable valve to prevent leakage of water into the retort during processing.

(12) *Vents.* Vents shall be installed in such a way that air is removed from the retort before timing of the process is started. Vents shall be controlled by gate, plug cock, or other adequate type valves which shall be fully open to permit rapid discharge of air from the retort during the venting period. Vents shall not be connected directly to a closed drain system. If the overflow is used as a vent, there shall be an atmospheric break in the line before it connects to a closed drain. The vent shall be located in that portion of the retort opposite the steam inlet; for example, steam inlet in bottom portion and vent in top portion. Where a retort manifold connects several vent pipes from a single still retort, it shall be controlled by a gate, plug cock. or other adequate type valve. The retort manifold shall be of a size that the cross-sectional area of the pipe is larger than the total cross-sectional area of all connecting vents. The discharge shall not be directly connected to a closed drain without an atmospheric break in the line. A manifold header connecting vents or manifolds from several still retorts shall lead to the atmosphere. The manifold header shall not be controlled by a valve and shall be of a size that the cross-sectional area is at least equal to the total cross-sectional area of all connecting retort manifold pipes from all retorts venting simultaneously. Timing of the process shall not begin until the retort has been properly vented and the processing temperature has been reached. Some typical installations and operating procedures reflecting the requirements of this section for venting still retorts without divider plates are given in paragraph (a)(12)(i)(A) through (a)(12)(i)(D) and (a)(12)(ii)(A) and (a)(12)(ii)(B) of this section.

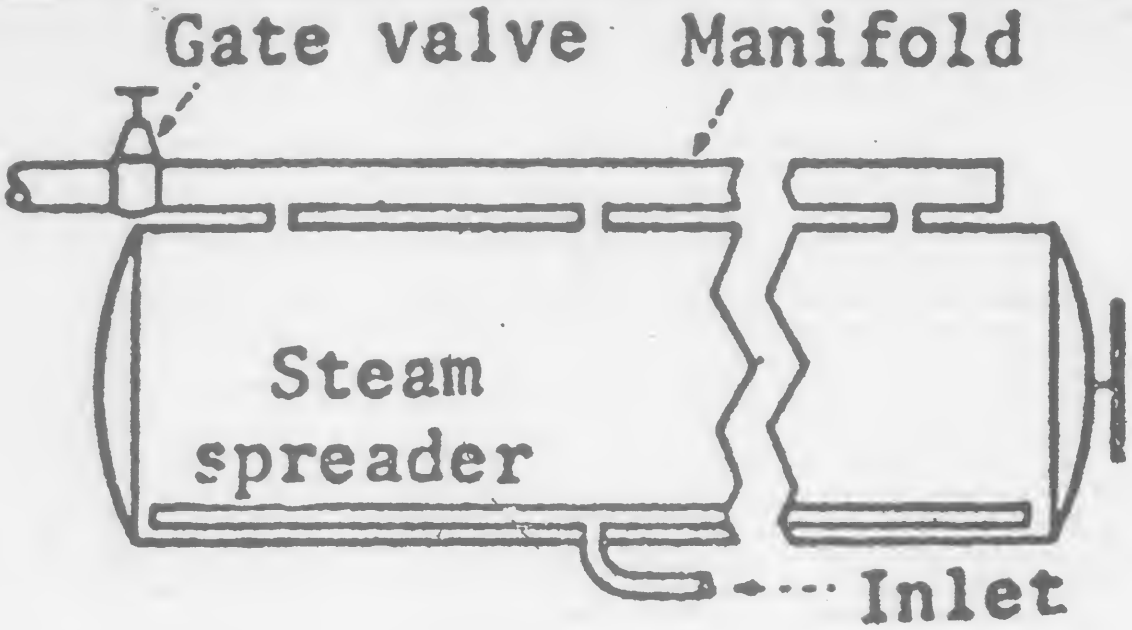
(i) *Venting horizontal retorts.* (A) Venting through multiple 1-inch (2.5 centimeters) vents discharging directly to atmosphere.



Specifications. One 1-inch (2.5 centimeters) vent for every 5 feet (1.5 meters) of retort length equipped with a gate or plug cock valve and discharging to atmosphere; end vents not more than 2.5 feet (76 centimeters) from ends of retort.

Venting method. Vent valves should be wide open for at least 5 minutes and to at least 225 °F (107.2 °C), or at least 7 minutes and to at least 220 °F (104.4 °C).

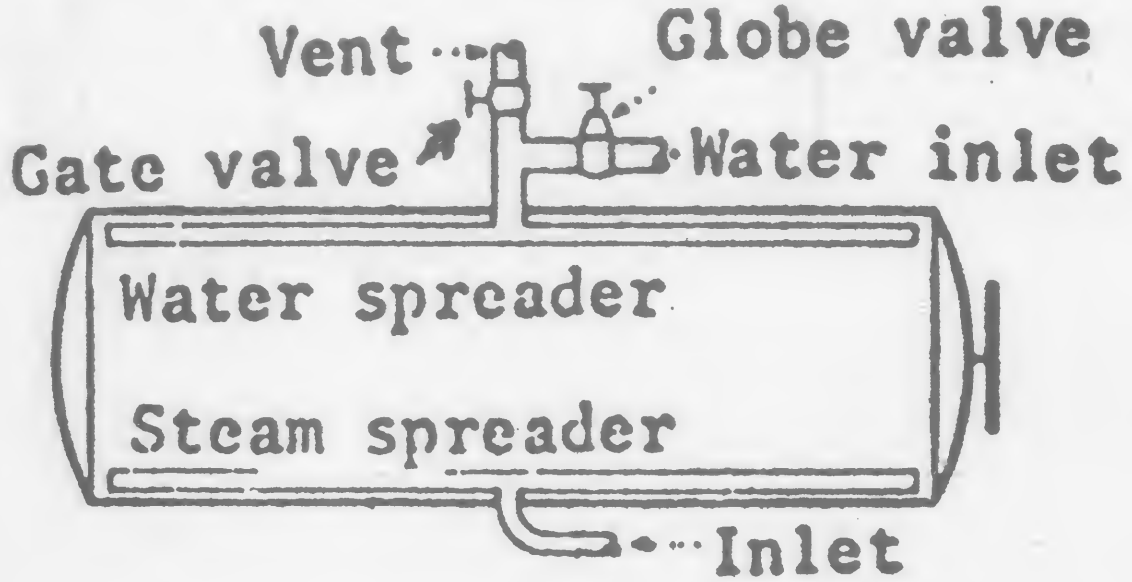
(B) Venting through multiple 1-inch (2.5 centimeters) vents discharging through a manifold to atmosphere.



Specifications. One 1-inch (2.5 centimeters) vent for every 5 feet (1.5 meters) of retort length; and vents not over 2.5 feet (76 centimeters) from ends of retort: Size of manifold—for retorts less than 15 feet (4.6 meters) in length, 2.5 inches (6.4 centimeters); for retorts 15 feet (4.6 meters) and over in length, 3 inches (7.6 centimeters).

Venting method. Manifold vent gate or plug cock valve should be wide open for at least 6 minutes and to at least 225 °F (107.2 °C), or for at least 8 minutes and to at least 220 °F (104.4 °C).

(C) Venting through water spreaders.

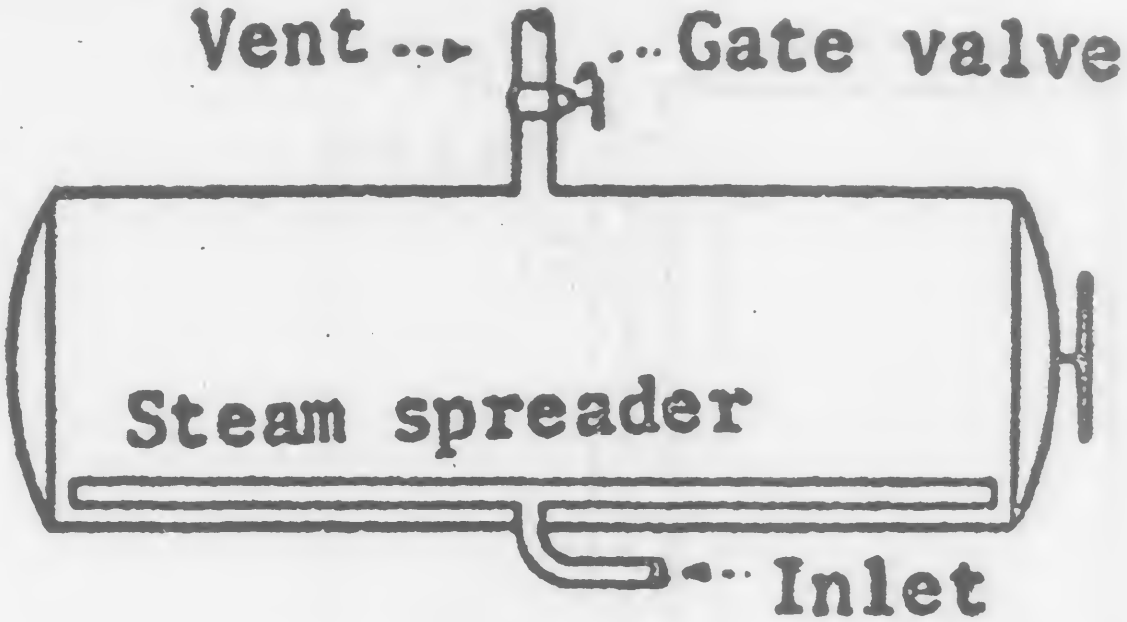


Size of vent and vent valve. For retorts less than 15 feet (4.6 meters) in length, 2 inches (5.1 centimeters); for retorts 15 feet (4.6 meters) and over in length, 2.5 inches (3.8 centimeters).

Size of water spreader. For retorts less than 15 feet (4.6 meters) in length, 1.5 inches (3.8 centimeters); for retorts 15 feet (4.6 meters) and over in length, 2 inches (5.1 centimeters). The number of holes should be such that their total cross-sectional area is approximately equal to the cross-sectional area of the vent pipe inlet.

Venting method. Water spreader vent gate or plug cock valve should be wide open for at least 5 minutes and to at least 225 °F (107.2 °C), or for at least 7 minutes and to at least 220 °F (104.4 °C).

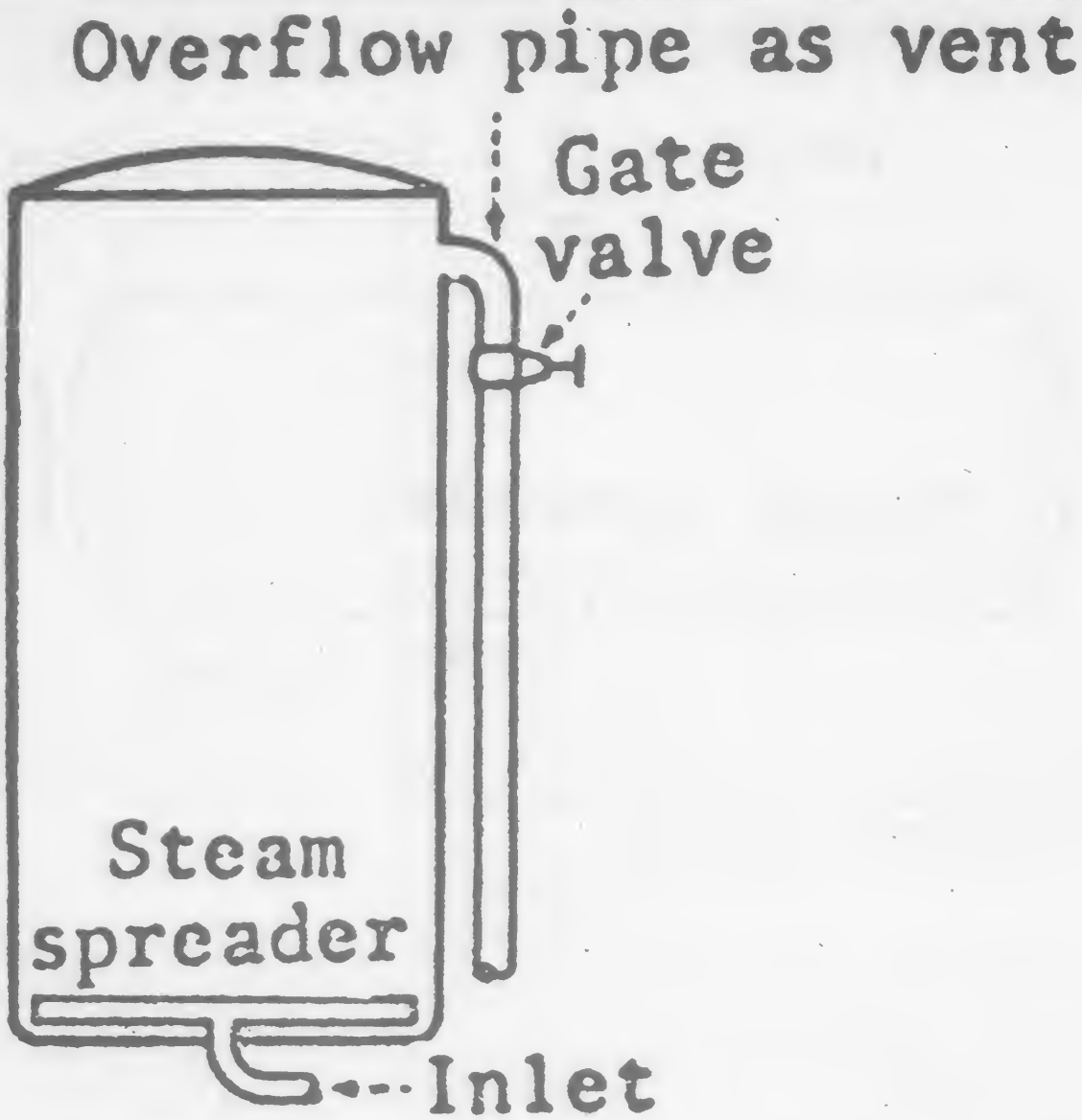
(D) Venting through a single 2.5-inch (6.4 centimeters) top vent (for retorts not exceeding 15 feet (4.6 meters) in length).



Specifications: A 2.5-inch (6.4 centimeters) vent equipped with a 2.5-inch (6.4 centimeters) gate or plug cock valve and located within 2 feet (61 centimeters) of the center of the retort.

Venting method: Vent gate or plug cock valve should be wide open for at least 4 minutes and to at least 220 °F (104.4 °C).

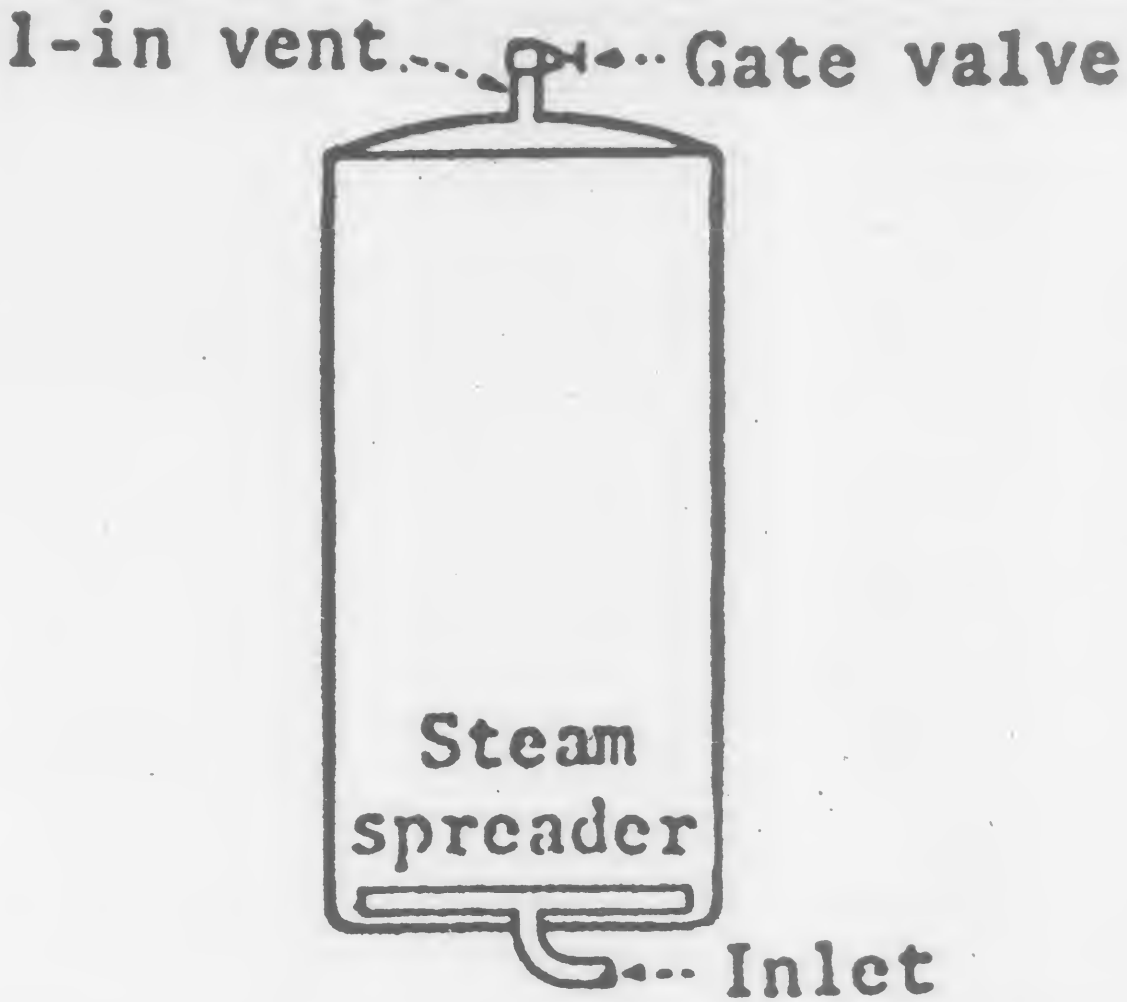
(ii) *Venting vertical retorts.* (A) Venting through a 1.5-inch (3.8 centimeters) overflow.



Specifications. A 1.5-inch (3.8 centimeters) overflow pipe equipped with a 1.5-inch (3.8 centimeters) gate or plug cock valve and with not more than 6 feet (1.8 meters) of 1.5-inch (3.8 centimeters) pipe beyond the valve before break to the atmosphere or to a manifold header.

Venting method. Vent gate or plug cock valve should be wide open for at least 4 minutes and to at least 218 °F (103.3 °C), or for at least 5 minutes and to at least 215 °F (101.7 °C).

(B) Venting through a single 1-inch (2.5 centimeters) side or top vent.



Specifications. A 1-inch (2.5 centimeters) vent in lid or top side, equipped with a 1-inch (2.5 centimeters) gate or plug cock valve and discharging directly into the atmosphere or to a manifold header.

Venting method. Vent gate or plug cock valve should be wide open for at least 5 minutes and to at least 230 °F (110.0 °C), or for at least 7 minutes and to at least 220 °F (104.4 °C).

(iii) *Other procedures.* Other installations and operating procedures that deviate from the above specifications may be used if there is evidence in the form of heat distribution data, which shall be kept on file, that they accomplish adequate venting of air.

(13) *Critical factors.* Critical factors specified in the scheduled process shall be measured and recorded on the processing record at intervals of sufficient frequency to ensure that the factors are within the limits specified in the scheduled process.

(i) When maximum fill-in or drained weight is specified in the scheduled process, it shall be measured and recorded at intervals of sufficient frequency to ensure that the weight of the product does not exceed the maximum for the given container size specified in the scheduled process.

(ii) Closing machine vacuum in vacuum-packed products shall be observed and recorded at intervals of sufficient frequency to ensure that the vacuum is as specified in the scheduled process.

(iii) Such measurements and recordings should be made at intervals not to exceed 15 minutes.

(iv) When the product style results in stratification or layering of the primary product in the containers, the positioning of containers in the retort shall be according to the scheduled process.

(b) *Equipment and procedures for pressure processing in water in still retorts*—(1) *Temperature-indicating device.* Each retort shall be equipped with at least one temperature-indicating device that accurately indicates the temperature during processing. Temperature-indicating devices shall be tested for accuracy against an accurate calibrated reference device by appropriate standard procedures, upon installation and at least once a year thereafter, or more frequently if necessary, to ensure accuracy during processing. Each temperature-indicating device and reference device shall have a tag, seal, or other means of identity.

(i) The design of the temperature-indicating device shall ensure that the accuracy of the device is not affected by electromagnetic interference and environmental conditions.

(ii) Written documentation of the accuracy of the temperature-indicating device and the reference device shall be established and maintained.

(A) Documentation of the accuracy of the temperature-indicating device shall include a reference to the tag, seal, or other means of identity used by the processor to identify the temperature-indicating device, the name of the manufacturer of the temperature-indicating device, the identity of the reference device used for the accuracy test and of equipment and procedures used to adjust or calibrate the temperature-indicating device, the date and results of each accuracy test, the name of the person or facility that performed the accuracy test and adjusted or calibrated the temperature-indicating device, and the date of the next scheduled accuracy test.

(B) Documentation of the accuracy of the reference device shall include a reference to the tag, seal, or other means of identity used by the processor to identify the reference device, the name of the manufacturer of the reference device, the identity of the equipment and procedures used to test the accuracy and to adjust or calibrate the reference device, the identity of the person or facility that performed the accuracy test and adjusted or calibrated the reference device, the date and results of the accuracy test, and the traceability information. Documentation for the reference device may be in the form of a guaranty of accuracy from the manufacturer or a certificate of calibration from a laboratory.

(iii) A temperature-indicating device that is defective or cannot be adjusted to the accurate calibrated reference device shall be repaired or replaced before further use.

(iv) A temperature-indicating device shall be easily readable to 1 °F (0.5 °C). The temperature range of a mercury-in-glass thermometer shall not exceed 17 °F per inch (4 °C per centimeter) of graduated scale. A mercury-in-glass thermometer that has a divided mercury column shall be considered defective.

(v) Each temperature-indicating device shall be installed where it can be accurately and easily read. Sensors of temperature-indicating devices shall be located in such a position that they are beneath the surface of the water throughout the process. On horizontal retorts, this entry should be made in the side at the center, and the temperature-indicating device sensor shall be inserted directly into the retort shell. In both vertical and horizontal retorts, the temperature-indicating device sensor shall extend directly into the water a minimum of at least 2 inches (5.1 centimeters) without a separable well or sleeve. If a separate well or sleeve is used, there must be adequate circulation to ensure accurate temperature measurements. The temperature-indicating device—not the temperature-recording device—shall be the reference instrument for indicating the processing temperature.

(2) *Temperature-recording device.* Each retort shall have an accurate temperature-recording device that records temperatures to a permanent record, such as a temperature-recording chart.

(i) *Analog or graphical recordings.* Temperature-recording devices that create analog or graphical recordings may be used. Temperature-recording devices that record to charts shall be used only with the appropriate chart. Each chart shall have a working scale of not more than 55 °F per inch (12 °C per centimeter) within a range of 20 °F (10 °C) of the process temperature. Chart graduations shall not exceed 2 °F (1 °C) within a range of 10 °F (5 °C) of the process temperature. Temperature-recording devices that create multipoint plottings of temperature readings shall record the temperature at intervals that will assure that the parameters of the process time and process temperature have been met.

(ii) *Digital recordings.* Temperature-recording devices, such as data loggers, that record numbers or create other digital records may be used. Such a device shall record the temperature at intervals that will assure that the parameters of the process time and process temperature have been met.

(iii) *Adjustments.* The temperature-recording device shall be adjusted to agree as nearly as possible with, but to be in no event higher than, the temperature-indicating device during the process time. A means of preventing unauthorized changes in adjustment shall be provided. A lock or a notice from management posted at or near the temperature-recording device that provides a warning that only authorized persons are permitted to make adjustments is a satisfactory means of preventing unauthorized changes.

(iv) *Temperature controller.* The temperature-recording device may be combined with the steam controller and may be a combination recording-controlling instrument. For a vertical retort equipped with a combination recorder-controller, the temperature recorder-controller sensor shall be located at the bottom of the retort below the lowest crate rest in such a position that the steam does not strike it directly. For a horizontal retort equipped with a combination recorder-controller, the temperature recorder-controller sensor shall be located between the water surface and the horizontal plane passing through the center of the retort so that there is no opportunity for direct steam impingement on the sensor. For all still retort systems that pressure process in water and are equipped with combination recorder-controllers, the temperature recorder-controller sensors shall be located where the recorded temperature is an accurate measurement of the scheduled process temperature and is not affected by the heating media. Air-operated temperature controllers should have adequate filter systems to ensure a supply of clean, dry air.

(3) *Pressure gages.* (i) Each retort should be equipped with a pressure gage that should be graduated in divisions of 2 pounds per square inch (13.8 kilopascals) or less.

(ii) Each retort should have an adjustable pressure relief or control valve of a capacity sufficient to prevent an undesired increase in retort pressure when the water valve is wide open and should be installed in the overflow line.

(4) *Steam controller.* Each retort shall be equipped with an automatic steam controller to maintain the retort temperature. The steam controller may be combined with a temperature-recording device and, thus, may be a combination recorder-controller.

(5) *Steam introduction.* Steam shall be distributed in the bottom of the retort in a manner adequate to provide uniform heat distribution throughout the retort. In vertical retorts, uniform steam distribution can be achieved by any of several methods. In horizontal retorts, the steam distributor shall run the length of the bottom of the retort with perforations distributed uniformly along the upper part of the pipe.

(6) *Crate supports.* A bottom crate support shall be used in vertical still retorts. Baffle plates shall not be used in the bottom of the retort. Centering guides should be installed so as to ensure that there is about a 1.5-inch (3.8 centimeters) clearance between the side wall of the crate and the retort wall.

(7) *Stacking equipment and position of containers.* Crates, trays, gondolas, etc., for holding containers shall be made of strap iron, adequately perforated sheet metal, or other suitable material. When perforated sheet metal is used for the bottoms, the perforations should be approximately the equivalent of 1-inch (2.5 centimeters) holes on 2-inch (5.1 centimeters) centers. If divider plates are used between the layers of containers, they should be perforated as stated in this paragraph. The positioning of containers in the retort, when specified in the scheduled process, shall be in accordance with that process. Dividers, racks, trays, or other means of positioning of flexible containers shall be designed and employed to ensure

even circulation of heating medium around all containers in the retort.

(8) *Drain valve.* A nonclogging, watertight valve shall be used. A screen shall be installed or other suitable means shall be used on all drain openings to prevent clogging.

(9) *Water level indicator.* There shall be a means of determining the water level in the retort during operation, e.g., by using a sensor, gage, water glass, or petcock(s). Water shall cover the top layer of containers during the entire come-up-time and processing periods and should cover the top layer of containers during the cooling periods. The operator shall check and record the water level at intervals sufficient to ensure its adequacy.

(10)(i) *Air supply and controls.* In both horizontal and vertical still retorts for pressure processing in water, a means shall be provided for introducing compressed air at the proper pressure and rate. The proper pressure shall be controlled by an automatic pressure control unit. A check valve shall be provided in the air supply line to prevent water from entering the system. Air or water circulation shall be maintained continuously during the come-up-time and during processing and cooling periods. The adequacy of the air or water circulation for uniform heat distribution within the retort shall be established in accordance with procedures recognized by a competent processing authority and records shall be kept on file. If air is used to promote circulation, it shall be introduced into the steam line at a point between the retort and the steam control valve at the bottom of the retort.

(ii) *Water circulation.* When a water circulating system is used for heat distribution, it shall be installed in such a manner that water will be drawn from the bottom of the retort through a suction manifold and discharged through a spreader which extends the length of the top of the retort. The holes in the water spreader shall be uniformly distributed and should have an aggregate area not greater than the cross-section area of the outlet line from the pump. The suction outlets shall be protected with nonclogging screens or other suitable means shall be used to keep debris from entering the circulating system. The pump shall be equipped with a pilot light or other signaling device to warn the operator when it is not running, and with a bleeder to remove air when starting operations. Alternative methods for circulation of water in the retort may be used when established by a competent authority as adequate for even heat distribution.

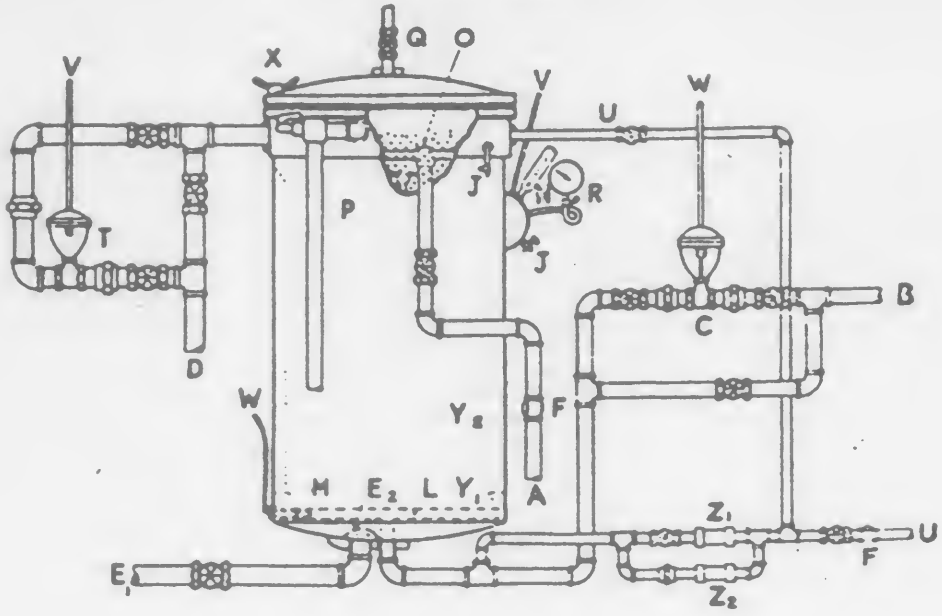
(11) *Cooling water supply.* In vertical retorts the cooling water should be introduced at the top of the retort between the water and container levels; in horizontal retorts the cooling water should be introduced into the suction side of the pump. A check valve should be included in the cooling water line.

(12) *Retort headspace.* The headspace necessary to control the air pressure should be maintained between the water level and the top of the retort shell.

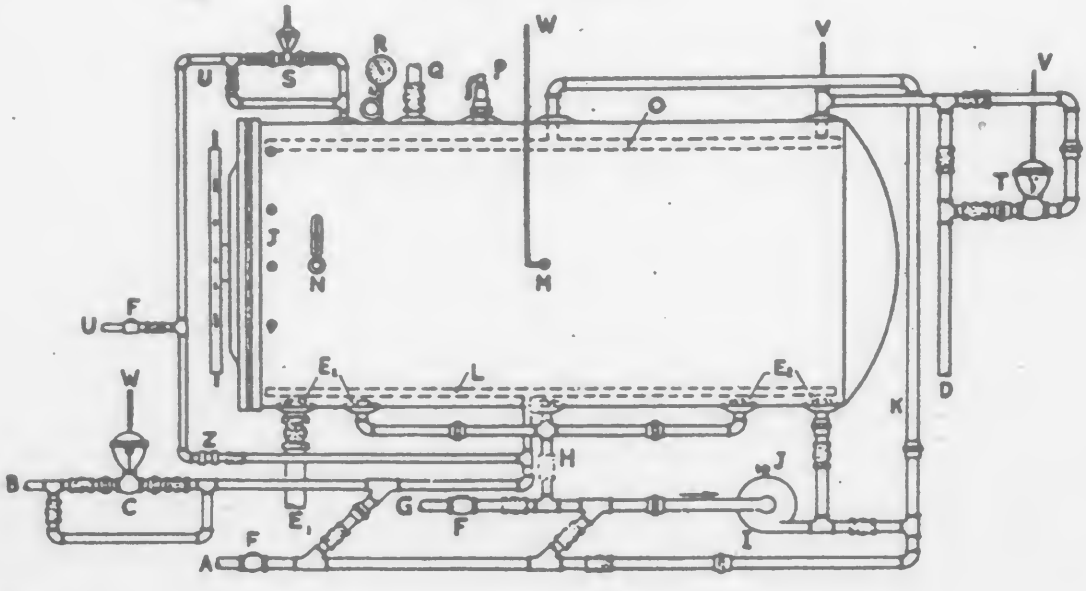
(13) *Vertical and horizontal still retorts.* Vertical and horizontal still retorts should follow the arrangements in the diagrams below in this paragraph. Other installation and operating procedures that deviate from these arrangements may be used, as long as there is evidence in the form of heat distribution data or other suitable information, which shall be kept on file, which demonstrates that the heat distribution is adequate.

BILLING CODE 4160-01-S

Vertical Retorts



Horizontal Retorts



BILLING CODE 4160–01–C

Legend for Vertical and Horizontal Still Retorts

A—Water line.
B—Steam line.
C—Temperature control.
D—Overflow line.
E_1—Drain line.
E_2—Screens.
F—Check valves.
G—Line from hot water storage.
H—Suction line and manifold.
I—Circulating pump.
J—Petcocks.
K—Recirculating line.
L—Steam distributor.
M—Temperature-controller sensor.
N—Temperature-indicating device sensor.
O—Water spreader.
P—Safety valve.
Q—Vent valve for steam processing.
R—Pressure gage.
S—Inlet air control.
T—Pressure control.
U—Air line.
V—To pressure control instrument.
W—To temperature control instrument.
X—Wing nuts.
Y_1—Crate support.
Y_2—Crate guides.
Z—Constant flow orifice valve.
Z_1—Constant flow orifice valve used during come-up.
Z_2—Constant flow orifice valve used during cook.

(14) *Critical factors.* Critical factors specified in the scheduled process shall be measured and recorded on the processing record at intervals of sufficient frequency to ensure that the factors are within the limits specified in the scheduled process.

(i) When maximum fill-in or drained weight is specified in the scheduled process, it shall be measured and recorded at intervals of sufficient frequency to ensure that the weight of the product does not exceed the maximum for the given container size specified in the scheduled process.

(ii) Closing machine vacuum in vacuum-packed products shall be observed and recorded at intervals of sufficient frequency to ensure that the vacuum is as specified in the scheduled process.

(iii) Such measurements and recordings should be made at intervals not to exceed 15 minutes.

(iv) When the product style results in stratification or layering of the primary product in the containers, the positioning of containers in the retort shall be according to the scheduled process.

(c) *Equipment and procedures for pressure processing in steam in continuous agitating retorts*—(1) *Temperature-indicating device.* Each retort shall be equipped with at least one temperature-indicating device that accurately indicates the temperature during processing. Temperature-indicating devices shall be tested for accuracy against an accurate calibrated reference device by appropriate standard procedures, upon installation and at least once a year thereafter, or more frequently if necessary, to ensure accuracy during processing. Each temperature-indicating device and reference device shall have a tag, seal, or other means of identity.

(i) The design of the temperature-indicating device shall ensure that the accuracy of the device is not affected by electromagnetic interference and environmental conditions.

(ii) Written documentation of the accuracy of the temperature-indicating device and the reference device shall be established and maintained.

(A) Documentation of the accuracy of the temperature-indicating device shall include a reference to the tag, seal, or other means of identity used by the processor to identify the temperature-indicating device, the name of the manufacturer of the temperature-indicating device, the identity of the reference device used for the accuracy test and of equipment and procedures used to adjust or calibrate the temperature-indicating device, the date and results of each accuracy test, the name of the person or facility that performed the accuracy test and adjusted or calibrated the temperature-indicating device, and the date of the next scheduled accuracy test.

(B) Documentation of the accuracy of the reference device shall include a reference to the tag, seal, or other means of identity used by the processor to identify the reference device, the name of the manufacturer of the reference device, the identity of the equipment and procedures used to test the accuracy and to adjust or calibrate the reference device, the identity of the person or facility that performed the accuracy test and adjusted or calibrated the reference device, the date and results of the accuracy test, and the traceability information. Documentation for the reference device may be in the form of a guaranty of accuracy from the manufacturer or a certificate of calibration from a laboratory.

(iii) A temperature-indicating device that is defective or cannot be adjusted to the accurate calibrated reference device shall be repaired or replaced before further use.

(iv) A temperature-indicating device shall be easily readable to 1 °F (0.5 °C). The temperature range of a mercury-in-glass thermometer shall not exceed 17 °F per inch (4 °C per centimeter) of graduated scale. A mercury-in-glass thermometer that has a divided mercury column shall be considered defective.

(v) Each temperature-indicating device shall be installed where it can be accurately and easily read. The sensor of the temperature-indicating device shall be installed either within the retort shell or in external wells attached to the retort. External wells or pipes shall be connected to the retort through at least a 3/4-inch (2 centimeters) diameter opening and equipped with a 1/16-inch (1.5 millimeters) or larger bleeder opening so located as to provide a full flow of steam past the length of the temperature-indicating device sensor. The bleeders for external wells shall emit steam continuously during the entire processing period. The temperature-indicating device—not the temperature-recording device—shall be the reference instrument for indicating the processing temperature.

(2) *Temperature-recording device.* Each retort shall have an accurate temperature-recording device that records temperatures to a permanent record, such as a temperature-recording chart.

(i) *Analog or graphical recordings.* Temperature-recording devices that create analog or graphical recordings may be used. Temperature-recording devices that record to charts shall be used only with the appropriate chart. Each chart shall have a working scale of not more than 55 °F per inch (12 °C per centimeter) within a range of 20 °F (10 °C) of the process temperature. Chart graduations shall not exceed 2 °F (1 °C) within a range of 10 °F (5 °C) of the process temperature. Temperature-recording devices that create multipoint plottings of temperature readings shall record the temperature at intervals that will assure that the parameters of the process time and process temperature have been met.

(ii) *Digital recordings.* Temperature-recording devices, such as data loggers, that record numbers or create other digital records may be used. Such a device shall record the temperature at intervals that will assure that the parameters of the process time and process temperature have been met.

(iii) *Adjustments.* The temperature-recording device shall be adjusted to agree as nearly as possible with, but to be in no event higher than, the temperature-indicating device during the process time. A means of preventing unauthorized changes in adjustment shall be provided. A lock or a notice from management posted at or near the temperature-recording device that

provides a warning that only authorized persons are permitted to make adjustments is a satisfactory means of preventing unauthorized changes.

(iv) *Temperature controller.* The temperature-recording device may be combined with the steam controller and may be a recording-controlling instrument. The temperature-recording device sensor shall be installed either within the retort shell or in a well attached to the shell. Each temperature-recording device sensor well shall have a 1/16-inch (1.5 millimeters) or larger bleeder opening emitting steam continuously during the processing period. Air-operated temperature controllers should have adequate filter systems to ensure a supply of clean, dry air.

(3) *Pressure gages.* Each retort should be equipped with a pressure gage, which should be graduated in divisions of 2 pounds per square inch (13.8 kilopascals) or less.

(4) *Steam controller.* Each retort shall be equipped with an automatic steam controller to maintain the retort temperature. This may be a recording-controlling instrument when combined with a temperature-recording device. A steam controller activated by the steam pressure of the retort is acceptable if it is carefully maintained mechanically so that it operates satisfactorily.

(5) *Bleeders.* Bleeders, except those for temperature-indicating device wells, shall be 1/8-inch (3 millimeters) or larger and shall be wide open during the entire process, including the come-up-time. Bleeders shall be located within approximately 1 foot (30.5 centimeters) of the outermost location of containers at each end along the top of the retort. Additional bleeders shall be located not more than 8 feet (2.4 meters) apart along the top of the retort. All bleeders shall be arranged so that the operator can observe that they are functioning properly. The condensate bleeder shall be checked with sufficient frequency to ensure adequate removal of condensate or shall be equipped with an automatic alarm system(s) that would serve as a continuous monitor of condensate-bleeder functioning. Visual checks should be done at intervals of not more than 15 minutes. A record of such checks should be kept to show that the bleeder is functioning properly.

(6) *Venting and condensate removal.* Vents shall be located in that portion of the retort opposite the steam inlet. Air shall be removed before processing is started. Heat distribution data or documentary proof from the manufacturer or from a competent processing authority, demonstrating that adequate venting is achieved, shall be kept on file. At the time steam is turned on, the drain should be opened for a time sufficient to remove steam condensate from the retort, and provision shall be made for continuing drainage of condensate during the retort operation. The condensate bleeder in the bottom of the shell serves as an indicator of continuous condensate removal.

(7) *Retort speed timing.* The rotational speed of the retort shall be specified in the scheduled process. The speed shall be adjusted and recorded when the retort is started, at any time a speed change is made, and at intervals of sufficient frequency to ensure that the retort speed is maintained as specified in the scheduled process. These adjustments and recordings should be made every 4 hours or less. Alternatively, a recording tachometer may be used to provide a continuous record of the speed. A means of preventing unauthorized speed changes on retorts shall be provided. A lock, or a notice from management posted at or near the speed adjustment device that provides a warning that only authorized persons are permitted to make adjustments, is a satisfactory means of preventing unauthorized changes.

(8) *Emergency stops.* If a retort jams or breaks down during processing operations, necessitating cooling the retort for repairs, the retort shall be operated in such a way that ensures that the product is commercially sterile, or the retort is to be cooled promptly and all containers either reprocessed, repacked and reprocessed, or discarded. When operated as a still retort, all containers shall be given a full still retort process before the retort is cooled. If, in such an emergency, a scheduled still process or another process established to ensure commercial sterility is to be used, it shall be made readily available to the retort operator.

(i) Any containers in the retort intake valve or in transfer valves between cooker shells of a continuous retort at the time of breakdown shall either be reprocessed, repacked and reprocessed, or discarded.

(ii) Both the time at which the reel stopped and the time the retort was used for a still retort process, if so used, shall be marked on the recording chart and entered on the other production records required in this chapter. If the alternative procedure of prompt cooling is followed, the subsequent handling methods used for the containers in the retort at the time of stopping and cooling shall be entered on the production records.

(9) *Temperature drop.* If the temperature of the continuous retort drops below the temperature specified in the scheduled process while containers are in the retort, the retort reel shall be stopped promptly. An automatic device should be used to stop the reel when the temperature drops below the specified process temperature. Before the reel is restarted, all containers in the retort shall be given a complete scheduled still retort process if the temperature drop was 10 °F (5 °C) or more below the specified temperature, or alternatively, container entry to the retort shall be stopped and the reel restarted to empty the retort. The discharged containers shall be either reprocessed, repacked and reprocessed, or discarded. Both the time at which the reel stopped and the time the retort was used for a still retort process, if so used, shall be marked on the temperature-recording device record and entered on the other production records required in this chapter. If the alternative procedure of emptying the retort is followed, the subsequent handling methods used for the containers in the retort at the time of the temperature drop shall be entered on the production records. If the temperature drop was less than 10 °F (5 °C), a scheduled authorized emergency still process approved by a qualified person(s) having expert knowledge of thermal processing requirements may be used before restarting the retort reel. Alternatively, container entry to the retort shall be stopped and an authorized emergency agitating process may be used before container entry to the retort is restarted. When emergency procedures are used, no containers may enter the retort and the process and procedures used shall be noted on the production records.

(10) *Critical factors.* Critical factors specified in the scheduled process shall be measured and recorded on the processing record at intervals of sufficient frequency to ensure that the factors are within the limits specified in the scheduled process. The minimum headspace of containers, if specified in the scheduled process, shall be measured and recorded at intervals of sufficient frequency to ensure that the headspace is as specified in the scheduled process. The headspace of solder-tipped, lapseam (vent hole) cans may be measured by net weight determinations. The headspace of double seamed cans may also be measured by net weight determinations for homogenous liquids, taking into account the specific can end profile and other factors which affect the headspace, if proof of the accuracy of such measurements is maintained and

the procedure and resultant headspace is in accordance with the scheduled process. When the product consistency is specified in the scheduled process, the consistency of the product shall be determined by objective measurements on the product taken from the filler before processing and recorded at intervals of sufficient frequency to ensure that the consistency is as specified in the scheduled process. Minimum closing machine vacuum in vacuum-packed products, maximum fill-in or drained weight, minimum net weight, and percent solids shall be as specified in the scheduled process for all products when deviations from such specifications may affect the scheduled process. All measurements and recordings of critical factors should be made at intervals not to exceed 15 minutes.

(d) *Equipment and procedures for pressure processing in steam in discontinuous agitating retorts*—(1) *Temperature-indicating device.* Each retort shall be equipped with at least one temperature-indicating device that accurately indicates the temperature during processing. Temperature-indicating devices shall be tested for accuracy against an accurate calibrated reference device by appropriate standard procedures, upon installation and at least once a year thereafter, or more frequently if necessary, to ensure accuracy during processing. Each temperature-indicating device and reference device shall have a tag, seal, or other means of identity.

(i) The design of the temperature-indicating device shall ensure that the accuracy of the device is not affected by electromagnetic interference and environmental conditions.

(ii) Written documentation of the accuracy of the temperature-indicating device and the reference device shall be established and maintained.

(A) Documentation of the accuracy of the temperature-indicating device shall include a reference to the tag, seal, or other means of identity used by the processor to identify the temperature-indicating device, the name of the manufacturer of the temperature-indicating device, the identity of the reference device used for the accuracy test and of equipment and procedures used to adjust or calibrate the temperature-indicating device, the date and results of each accuracy test, the name of the person or facility that performed the accuracy test and adjusted or calibrated the temperature-indicating device, and the date of the next scheduled accuracy test.

(B) Documentation of the accuracy of the reference device shall include a reference to the tag, seal, or other means of identity used by the processor to identify the reference device, the name of the manufacturer of the reference device, the identity of the equipment and procedures used to test the accuracy and to adjust or calibrate the reference device, the identity of the person or facility that performed the accuracy test and adjusted or calibrated the reference device, the date and results of the accuracy test, and the traceability information. Documentation for the reference device may be in the form of a guaranty of accuracy from the manufacturer or a certificate of calibration from a laboratory.

(iii) A temperature-indicating device that is defective or cannot be adjusted to the accurate calibrated reference device shall be repaired or replaced before further use.

(iv) A temperature-indicating device shall be easily readable to 1 °F (0.5 °C). The temperature range of a mercury-in-glass thermometer shall not exceed 17 °F per inch (4 °C per centimeter) of graduated scale. A mercury-in-glass thermometer that has a divided mercury column shall be considered defective.

(v) Each temperature-indicating device shall be installed where it can be accurately and easily read. The sensor of the temperature-indicating device shall be installed either within the retort shell or in external wells attached to the retort. External wells or pipes shall be connected to the retort through at least a 3/4-inch (2 centimeters) diameter opening and equipped with a 1/16-inch (1.5 millimeters) or larger bleeder opening so located as to provide a full flow of steam past the length of the temperature-indicating device sensor. The bleeders for external wells shall emit steam continuously during the entire processing period. The temperature-indicating device—not the temperature-recording device—shall be the reference instrument for indicating the processing temperature.

(2) *Temperature-recording device.* Each retort shall have an accurate temperature-recording device that records temperatures to a permanent record, such as a temperature-recording chart.

(i) *Analog or graphical recordings.* Temperature-recording devices that create analog or graphical recordings may be used. Temperature-recording devices that record to charts shall be used only with the appropriate chart. Each chart shall have a working scale of not more than 55 °F per inch (12 °C per centimeter) within a range of 20 °F (10 °C) of the process temperature. Chart graduations shall not exceed 2 °F (1 °C) within a range of 10 °F (5 °C) of the process temperature. Temperature-recording devices that create multipoint plottings of temperature readings shall record the temperature at intervals that will assure that the parameters of the process time and process temperature have been met.

(ii) *Digital recordings.* Temperature-recording devices, such as data loggers, that record numbers or create other digital records may be used. Such a device shall record the temperature at intervals that will assure that the parameters of the process time and process temperature have been met.

(iii) *Adjustments.* The temperature-recording device shall be adjusted to agree as nearly as possible with, but to be in no event higher than, the temperature-indicating device during the process time. A means of preventing unauthorized changes in adjustment shall be provided. A lock or a notice from management posted at or near the temperature-recording device that provides a warning that only authorized persons are permitted to make adjustments is a satisfactory means of preventing unauthorized changes.

(iv) *Temperature controller.* The temperature-recording device may be combined with the steam controller and may be a recording-controlling instrument. The temperature-recording device sensor shall be installed either within the retort shell or in a well attached to the shell. Each temperature-recording device sensor well shall have a 1/16-inch (1.5 millimeters) or larger bleeder that emits steam continuously during the processing period. Air-operated temperature controllers should have adequate filter systems to ensure a supply of clean, dry air.

(3) *Pressure gages.* Each retort should be equipped with a pressure gage that should be graduated in divisions of 2 pounds per square inch (13.8 kilopascals) or less.

(4) *Steam controller.* Each retort shall be equipped with an automatic steam controller to maintain the retort temperature. This may be a recording-controlling instrument when combined with a temperature-recording device. A steam controller activated by the steam pressure of the retort is acceptable if it is mechanically maintained so that it operates satisfactorily.

(5) *Bleeders.* Bleeders, except those for temperature-indicating device wells, shall be 1/8-inch (3 millimeters) or larger and shall be wide open during the entire process, including the come-up-time. Bleeders shall be located within approximately 1 foot (30.5 centimeters) of the outermost location of containers, at each end along the top of the retort; additional bleeders shall be located not

more than 8 feet (2.4 meters) apart along the top. Bleeders may be installed at positions other than those specified in this paragraph, as long as there is evidence in the form of heat distribution data that they accomplish adequate removal of air and circulation of heat within the retort. In retorts having top steam inlet and bottom venting, a bleeder shall be installed in the bottom of the retort to remove condensate. All bleeders shall be arranged in a way that enables the operator to observe that they are functioning properly.

(6) *Venting and condensate removal.* The air in each retort shall be removed before processing is started. Heat distribution data or documentary proof from the manufacturer or from a competent processing authority, demonstrating that adequate venting is achieved, shall be kept on file. At the time steam is turned on, the drain should be opened for a time sufficient to remove steam condensate from the retort and provision should be made for containing drainage of condensate during the retort operation.

(7) *Retort speed timing.* The rotational speed of the retort shall be specified in the schedules process. The speed shall be adjusted, as necessary, to ensure that the speed is as specified in the scheduled process. The rotational speed as well as the process time shall be recorded for each retort load processed. Alternatively, a recording tachometer may be used to provide a continuous record of the speed. A means of preventing unauthorized speed changes on retorts shall be provided. A lock, or a notice from management posted at or near the speed-adjustment device that provides a warning that only authorized persons are permitted to make adjustments, is a satisfactory means of preventing unauthorized changes.

(8) *Critical factors.* Critical factors specified in the schedules process shall be measured and recorded on the processing record at intervals of sufficient frequency to ensure that the factors are within the limits specified in the scheduled process. The minimum headspace of containers in each retort load to be processed, if specified in the scheduled process, shall be measured and recorded at intervals of sufficient frequency to ensure that the headspace is as specified in the scheduled process. The headspace of solder-tipped, lap seam (vent hole) cans may be measured by net weight determinations. When the product consistency is specified in the scheduled process, the consistency of the product shall be determined by objective measurements on the product taken from the filler before processing and recorded at intervals of sufficient frequency to ensure that the consistency is as specified in the scheduled process. Minimum closing machine vacuum in vacuum-packed products, maximum fill-in or drained weight, minimum net weight, and percent solids shall be as specified in the scheduled process for all products for which deviations from such specifications may affect the scheduled process. All measurements and recordings of critical factors should be made at intervals not to exceed 15 minutes.

(e) *Equipment and procedures for pressure processing in water in discontinuous agitating retorts*—(1) *Temperature-indicating device.* Each retort shall be equipped with at least one temperature-indicating device that accurately indicates the temperature during processing. Temperature-indicating devices shall be tested for accuracy against an accurate calibrated reference device by appropriate standard procedures, upon installation and at least once a year thereafter, or more frequently if necessary, to ensure accuracy during processing. Each temperature-indicating device and reference device shall have a tag, seal, or other means of identity.

(i) The design of the temperature-indicating device shall ensure that the accuracy of the device is not affected by electromagnetic interference and environmental conditions.

(ii) Written documentation of the accuracy of the temperature-indicating device and the reference device shall be established and maintained.

(A) Documentation of the accuracy of the temperature-indicating device shall include a reference to the tag, seal, or other means of identity used by the processor to identify the temperature-indicating device, the name of the manufacturer of the temperature-indicating device, the identity of the reference device used for the accuracy test and of equipment and procedures used to adjust or calibrate the temperature-indicating device, the date and results of each accuracy test, the name of the person or facility that performed the accuracy test and adjusted or calibrated the temperature-indicating device, and the date of the next scheduled accuracy test.

(B) Documentation of the accuracy of the reference device shall include a reference to the tag, seal, or other means of identity used by the processor to identify the reference device, the name of the manufacturer of the reference device, the identity of the equipment and procedures used to test the accuracy and to adjust or calibrate the reference device, the identity of the person or facility that performed the accuracy test and adjusted or calibrated the reference device, the date and results of the accuracy test, and the traceability information. Documentation for the reference device may be in the form of a guaranty of accuracy from the manufacturer or a certificate of calibration from a laboratory.

(iii) A temperature-indicating device that is defective or cannot be adjusted to the accurate calibrated reference device shall be repaired or replaced before further use.

(iv) A temperature-indicating device shall be easily readable to 1 °F (0.5 °C). The temperature range of a mercury-in-glass thermometer shall not exceed 17 °F per inch (4 °C per centimeter) of graduated scale. A mercury-in-glass thermometer that has a divided mercury column shall be considered defective.

(v) Each temperature-indicating device shall be installed where it can be accurately and easily read. The sensor of the temperature-indicating device shall be installed either within the retort shell or in an external well attached to the retort. Sensors of temperature-indicating devices shall be located in such a position that they are beneath the surface of the water throughout the process. This entry should be made in the side at the center, and the temperature-indicating device sensor shall be inserted directly into the retort shell. The temperature-indicating device sensor shall extend directly into the water a minimum of at least 2 inches (5.1 centimeters) without a separable well or sleeve. If a separate well or sleeve is used, there must be adequate circulation to ensure accurate temperature measurements. The temperature-indicating device—not the temperature-recording device—shall be the reference instrument for indicating the processing temperature.

(2) *Temperature-recording device.* Each retort shall have an accurate temperature-recording device that records temperatures to a permanent record, such as a temperature-recording chart.

(i) *Analog or graphical recordings.* Temperature-recording devices that create analog or graphical recordings may be used. Temperature-recording devices that record to charts shall be used only with the appropriate chart. Each chart shall have a working scale of not more than 55 °F per inch (12 °C per centimeter) within a range of 20 °F (10 °C) of the process temperature. Chart graduations shall not exceed 2 °F (1 °C) within a range of 10 °F (5 °C) of the process temperature. Temperature-recording devices that create multipoint plottings of temperature readings shall record the temperature at intervals that

will assure that the parameters of the process time and process temperature have been met.

(ii) *Digital recordings.* Temperature-recording devices, such as data loggers, that record numbers or create other digital records may be used. Such a device shall record the temperature at intervals that will assure that the parameters of the process time and process temperature have been met.

(iii) *Adjustments.* The temperature-recording device shall be adjusted to agree as nearly as possible with, but to be in no event higher than, the temperature-indicating device during the process time. A means of preventing unauthorized changes in adjustment shall be provided. A lock or a notice from management posted at or near the temperature-recording device that provides a warning that only authorized persons are permitted to make adjustments is a satisfactory means of preventing unauthorized changes.

(iv) *Temperature controller.* The temperature-recording device may be combined with the steam controller and may be a recording-controlling instrument. The temperature-recording device sensor shall be installed either within the retort shell or in a well attached to the shell. Air-operated temperature controllers should have adequate filter systems to ensure a supply of clean, dry air.

(3) *Pressure gages.* Each retort should be equipped with a pressure gage that should be graduated in divisions of 2 pounds per square inch (13.8 kilopascals) or less.

(4) *Steam controller.* Each retort shall be equipped with an automatic steam controller to maintain the retort temperature. This may be a recording-controlling instrument when combined with a temperature-recording device.

(5) *Retort speed timing.* The rotational speed of the retort shall be specified in the scheduled process. The speed shall be adjusted, as necessary, to ensure that the speed is as specified in the scheduled process. The rotational speed as well as the process time shall be recorded for each retort load processed. Alternatively, a recording tachometer may be used to provide a continuous record of the speed. A means of preventing unauthorized speed changes shall be provided. A lock, or a notice from management posted at or near the speed adjustment device that provides a warning that only authorized persons are permitted to make adjustment, is a satisfactory means of preventing unauthorized changes.

(6)(i) *Air supply and controls.* A means shall be provided for introducing compressed air at the proper pressure and rate. The proper pressure shall be controlled by an automatic pressure control unit. A check valve shall be provided in the air supply line to prevent water from entering the system.

(ii) *Water circulation.* When a water circulating system is used for heat distribution, it shall be installed in such a manner that water will be drawn from the bottom of the retort through a suction manifold and discharged through a spreader which extends the length of the top of the retort. The holes in the water spreader shall be uniformly distributed and should have an aggregate area not greater than the cross-section area of the outlet line from the pump. The suction outlets shall be protected with nonclogging screens or other suitable means shall be used to keep debris from entering the circulating system. The pump shall be equipped with a pilot light or other signaling device to warn the operator when it is not running, and with a bleeder to remove air when starting operations. Alternative methods for circulation of water in the retort may be used when established by a competent authority as adequate for even heat distribution.

(7) *Drain valve.* A nonclogging, water-tight valve shall be used. A screen shall be installed or other suitable means shall be used on all drain openings to prevent clogging.

(8) *Water level indicator.* There shall be a means of determining the water level in the retort during operation, e.g., by using a sensor, gage, water glass, or petcock(s). Water shall cover the top layer of containers during the entire come-up-time and processing periods and should cover the top layer of containers during the cooling periods. The operator shall check and record the water level at intervals sufficient to ensure its adequacy.

(9) *Critical factors.* Critical factors specified in the scheduled process shall be measured and recorded on the processing record at intervals of sufficient frequency to ensure that the factors are within the limits specified in the scheduled process. The minimum headspace of containers, if specified in the scheduled process, shall be measured and recorded at intervals of sufficient frequency to ensure that the headspace is as specified in the scheduled process. The headspace of solder-tipped, lap seam (vent hole) cans may be measured by net weight determinations. When the product consistency is specified in the scheduled process, the consistency of the product shall be determined by objective measurements on the product taken from the filler before processing and recorded at intervals of sufficient frequency to ensure that the consistency is as specified in the scheduled process. Minimum closing machine vacuum in vacuum-packed products, maximum fill-in or drained weight, minimum net weight, and percent solids shall be as specified in the scheduled process for all products when deviations from such specifications may affect the scheduled process. All measurements and recordings of critical factors should be made at intervals not to exceed 15 minutes.

(f) *Equipment and procedures for pressure processing in steam in hydrostatic retorts*—(1) *Temperature-indicating device.* Each retort shall be equipped with at least one temperature-indicating device that accurately indicates the temperature during processing. Temperature-indicating devices shall be tested for accuracy against an accurate calibrated reference device by appropriate standard procedures, upon installation and at least once a year thereafter, or more frequently if necessary, to ensure accuracy during processing. Each temperature-indicating device and reference device shall have a tag, seal, or other means of identity.

(i) The design of the temperature-indicating device shall ensure that the accuracy of the device is not affected by electromagnetic interference and environmental conditions.

(ii) Written documentation of the accuracy of the temperature-indicating device and the reference device shall be established and maintained.

(A) Documentation of the accuracy of the temperature-indicating device shall include a reference to the tag, seal, or other means of identity used by the processor to identify the temperature-indicating device, the name of the manufacturer of the temperature-indicating device, the identity of the reference device used for the accuracy test and of equipment and procedures used to adjust or calibrate the temperature-indicating device, the date and results of each accuracy test, the name of the person or facility that performed the accuracy test and adjusted or calibrated the temperature-indicating device, and the date of the next scheduled accuracy test.

(B) Documentation of the accuracy of the reference device shall include a reference to the tag, seal, or other means of identity used by the processor to identify the reference device, the name of the manufacturer of the reference device, the identity of the equipment and procedures used to test the accuracy and to adjust or calibrate the reference device, the identity of the person or

facility that performed the accuracy test and adjusted or calibrated the reference device, the date and results of the accuracy test, and the traceability information. Documentation for the reference device may be in the form of a guaranty of accuracy from the manufacturer or a certificate of calibration from a laboratory.

(iii) A temperature-indicating device that is defective or cannot be adjusted to the accurate calibrated reference device shall be repaired or replaced before further use.

(iv) A temperature-indicating device shall be easily readable to 1 °F (0.5 °C). The temperature range of a mercury-in-glass thermometer shall not exceed 17 °F per inch (4 °C per centimeter) of graduated scale. A mercury-in-glass thermometer that has a divided mercury column shall be considered defective.

(v) Each temperature-indicating device shall be installed where it can be accurately and easily read. The temperature-indicating device shall be located in the steam dome near the steam-water interface. When the scheduled process specifies maintenance of particular temperatures in the hydrostatic water legs, a temperature-indicating device shall be located in each hydrostatic water leg in a position near the bottom temperature-recording device sensor. The temperature-indicating device—not the temperature-recording device—shall be the reference instrument for indicating the processing temperature.

(2) *Temperature-recording device.* Each retort shall have an accurate temperature-recording device that records temperatures to a permanent record, such as a temperature-recording chart.

(i) *Analog or graphical recordings.* Temperature-recording devices that create analog or graphical recordings may be used. Temperature-recording devices that record to charts shall be used only with the appropriate chart. Each chart shall have a working scale of not more than 55 °F per inch (12 °C per centimeter) within a range of 20 °F (10 °C) of the process temperature. Chart graduations shall not exceed 2 °F (1 °C) within a range of 10 °F (5 °C) of the process temperature. Temperature-recording devices that create multipoint plottings of temperature readings shall record the temperature at intervals that will assure that the parameters of the process time and process temperature have been met.

(ii) *Digital recordings.* Temperature-recording devices, such as data loggers, that record numbers or create other digital recordings may be used. Such a device shall record the temperature at intervals that will assure that the parameters of the process time and process temperature have been met.

(iii) *Adjustments.* The temperature-recording device shall be adjusted to agree as nearly as possible with, but to be in no event higher than, the temperature-indicating device during the process time. A means of preventing unauthorized changes in adjustment shall be provided. A lock or a notice from management posted at or near the temperature-recording device that provides a warning that only authorized persons are permitted to make adjustments is a satisfactory means of preventing unauthorized changes.

(iv) *Temperature controller.* The temperature-recording device may be combined with the steam controller and may be a recording-controlling instrument. The temperature-recording device sensor shall be installed either within the steam dome or in a well attached to the dome. Each temperature-recording device sensor well shall have a 1/16-inch (1.5 millimeters) or larger bleeder which emits steam continuously during the processing period. Additional temperature-recording device sensors shall be installed in the hydrostatic water legs if the scheduled process specified maintenance of particular temperatures in the hydrostatic water legs. Air-operated temperature controllers should have adequate filter systems to ensure a supply of clean, dry air.

(3) *Pressure gages.* Each retort should be equipped with a pressure gage that should be graduated in divisions of 2 pounds per square inch (13.8 kilopascals) or less.

(4) *Recording of temperatures.* Temperatures indicated by the temperature-indicating device or devices shall be entered on a suitable form during processing operations. Temperatures shall be recorded by an accurate temperature-recording device or devices at the following points:

(i) In the steam chamber between the steam-water interface and the lowest container position.

(ii) Near the top and the bottom of each hydrostatic water leg if the scheduled process specifies maintenance of particular temperatures in the legs.

(5) *Steam controller.* Each retort shall be equipped with an automatic steam controller to maintain the retort temperature. This may be a recording-controlling instrument when combined with a temperature-recording device. A steam controller activated by the steam pressure of the retort is acceptable if it is carefully mechanically maintained so that it operates satisfactorily.

(6) *Venting.* Before the start of processing operations, the retort steam chamber or chambers shall be vented to ensure removal of air.

(7) *Bleeders.* Bleeder openings 1/4-inch (6 millimeters) or larger shall be located at the top of the steam chamber or chambers opposite the point of steam entry. Bleeders shall be wide open and shall emit steam continuously during the entire process, including the come-up-time. All bleeders shall be arranged in such a way that the operator can observe that they are functioning properly.

(8) *Retort speed.* The speed of the container-conveyor chain shall be specified in the scheduled process and shall be determined and recorded at the start of processing and at intervals of sufficient frequency to ensure that the retort speed is maintained as specified. The speed should be determined and recorded every 4 hours. An automatic device should be used to stop the chain when the temperature drops below that specified in the scheduled process. A means of preventing unauthorized speed changes shall be provided. A lock, or a notice from management posted at or near the speed-adjusting device that provides a warning that only authorized persons are permitted to make adjustments, is a satisfactory means of preventing unauthorized changes.

(9) *Critical factors.* Critical factors specified in the scheduled process shall be measured and recorded on the processing record at intervals of sufficient frequency to ensure that the factors are within the limits specified in the scheduled process.

(i) When maximum fill-in or drained weight is specified in the scheduled process, it shall be measured and recorded at intervals of sufficient frequency to ensure that the weight of the product does not exceed the maximum for the given container size specified in the scheduled process.

(ii) Closing machine vacuum in vacuum-packed products shall be observed and recorded at intervals of sufficient frequency to ensure that the vacuum is as specified in the scheduled process.

(iii) Such measurements and recordings should be made at intervals not to exceed 15 minutes.

(g) *Aseptic processing and packaging systems*—(1) *Product sterilizer*—(i) *Equipment*—(A) *Temperature-indicating device.* Each product sterilizer shall be equipped with at least one temperature-indicating device that accurately indicates the temperature during processing. Temperature-indicating devices shall be tested for

accuracy against an accurate calibrated reference device by appropriate standard procedures, upon installation and at least once a year thereafter, or more frequently if necessary, to ensure accuracy during processing. Each temperature-indicating device and reference device shall have a tag, seal, or other means of identity.

(*1*) The design of the temperature-indicating device shall ensure that the accuracy of the device is not affected by electromagnetic interference and environmental conditions.

(*2*) Written documentation of the accuracy of the temperature-indicating device and the reference device shall be established and maintained.

(*i*) Documentation of the accuracy of the temperature-indicating device shall include a reference to the tag, seal, or other means of identity used by the processor to identify the temperature-indicating device, the name of the manufacturer of the temperature-indicating device, the identity of the reference device used for the accuracy test and of equipment and procedures used to adjust or calibrate the temperature-indicating device, the date and results of each accuracy test, the name of the person or facility that performed the accuracy test and adjusted or calibrated the temperature-indicating device, and the date of the next scheduled accuracy test.

(*ii*) Documentation of the accuracy of the reference device shall include a reference to the tag, seal, or other means of identity used by the processor to identify the reference device, the name of the manufacturer of the reference device, the identity of the equipment and procedures used to test the accuracy and to adjust or calibrate the reference device, the identity of the person or facility that performed the accuracy test and adjusted or calibrated the reference device, the date and results of the accuracy test, and the traceability information. Documentation for the reference device may be in the form of a guaranty of accuracy from the manufacturer or a certificate of calibration from a laboratory.

(*3*) A temperature-indicating device that is defective or cannot be adjusted to the accurate calibrated reference device shall be repaired or replaced before further use.

(*4*) A temperature-indicating device shall be easily readable to 1 °F (0.5 °C). The temperature range of a mercury-in-glass thermometer shall not exceed 17 °F per inch (4 °C per centimeter) of graduated scale. A mercury-in-glass thermometer that has a divided mercury column shall be considered defective.

(*5*) Each temperature-indicating device shall be installed where it can be accurately and easily read. The temperature-indicating device—not the temperature-recording device—shall be the reference instrument for indicating the processing temperature.

(B) *Temperature-recording device.* Each product sterilizer shall have an accurate temperature-recording device that records temperatures to a permanent record, such as a temperature-recording chart. A temperature-recording device shall be installed in the product at the holding-tube outlet between the holding tube and the inlet to the cooler. Additional temperature-recording device sensors shall be located at each point where temperature is specified as a critical factor in the scheduled process:

(*1*) *Analog or graphical recordings.* Temperature-recording devices that create analog or graphical recordings may be used. Temperature-recording devices that record to charts shall be used only with the appropriate chart. Each chart shall have a working scale of not more than 55 °F per inch (12 °C per centimeter) within a range of 20 °F (10 °C) of the desired-product sterilization temperature. Chart graduations shall not exceed 2 °F (1 °C) within a range of 10 °F (5 °C) of the process temperature. Temperature-recording devices that create multipoint plottings of temperature readings shall record the temperature at intervals that will assure that the parameters of the process time and process temperature have been met.

(*2*) *Digital recordings.* Temperature-recording devices, such as data loggers, that record numbers or create other digital recordings may be used. Such a device shall record the temperature at intervals that will assure that the parameters of the process time and process temperature have been met.

(*3*) *Adjustments.* The temperature-recording device shall be adjusted to agree as nearly as possible with, but to be in no event higher than, the temperature-indicating device during the process time. A means of preventing unauthorized changes in adjustment shall be provided. A lock or a notice from management posted at or near the temperature-recording device that provides a warning that only authorized persons are permitted to make adjustments is a satisfactory means of preventing unauthorized changes.

(C) *Temperature controller.* An accurate temperature controller shall be installed and capable of ensuring that the desired product sterilization temperature is maintained. Air-operated temperature controllers should have adequate filter systems to ensure a supply of clean, dry air.

(D) *Product-to-product regenerators.* When a product-to-product regenerator is used to heat the cold unsterilized product entering the sterilizer by means of a heat exchange system, it shall be designed, operated, and controlled so that the pressure of the sterilized product in the regenerator is greater than the pressure of any unsterilized product in the regenerator to ensure that any leakage in the regenerator is from the sterilized product into the unsterilized product.

(E) *Differential pressure recorder-controller.* When a product-to-product regenerator is used, there shall be an accurate differential pressure recorder-controller installed on the regenerator. The scale divisions shall not exceed 2 pounds per square inch (13.8 kilopascals) on the working scale of not more than 20 pounds per square inch per inch of scale (55 kilopascals per centimeter). The controller shall be tested for accuracy against a known accurate standard pressure indicator upon installation and at least once every 3 months of operation thereafter, or more frequently if necessary, to ensure its accuracy. One pressure sensor shall be installed at the sterilized product regenerator outlet and the other pressure sensor shall be installed at the unsterilized product regenerator inlet.

(F) *Flow control.* A flow controlling device shall be located upstream from the holding tube and shall be operated to maintain the required rate of product flow. A means of preventing unauthorized flow adjustments shall be provided. A lock or a notice from management posted at or near the flow controlling device that provides a warning that only authorized persons are permitted to make adjustments, is a satisfactory means of preventing unauthorized changes.

(G) *Product holding tube.* The product-sterilizing holding tube shall be designed to give continuous holding of every particle of food for at least the minimum holding time specified in the scheduled process. The holding tube shall be designed so that no portion of the tube between the product inlet and the product outlet can be heated, and it must be sloped upward at least 1/4-inch per foot (2.1 centimeters per meter).

(H) *Flow-diversion systems.* If a processor elects to install a flow-diversion system, it should be installed in the product piping located between the product cooler and the product filler or aseptic surge tank and should be designed to divert flow away from the filler or aseptic surge tank automatically. Controls and/or warning

systems should be designed and installed with necessary sensors and actuators to operate whenever the sterilizing temperature in the holding tube or pressure differential in the product regenerator drops below specified limits. Flow-diversion systems should be designed and operated in accordance with recommendations of an aseptic processing and packaging authority.

(I) *Equipment downstream from the holding tube.* Product coolers, aseptic surge tanks, or any other equipment downstream from the holding tube, with rotating or reciprocating shafts, valve stems, instrument connections, or other such points, are subject to potential entry of microorganisms into the product. Such locations in the system should be equipped with steam seals or other effective barriers at the potential access points. Appropriate means should be provided to permit the operator to monitor the performance of the seals or barriers during operations.

(ii) *Operation*—(A) *Startup.* Before the start of aseptic processing operations the product sterilizer and all product-contact surfaces downstream shall be brought to a condition of commercial sterility.

(B) *Temperature drop in product-sterilizing holding tube.* When product temperature in the holding tube drops below the temperature specified in the scheduled process, product flow should be diverted away from the filler or aseptic surge tank by means of a flow-diversion system. If for any reason product subjected to a temperature drop below the scheduled process is filled into containers, the product shall be segregated from product that received the scheduled process. The processing deviation shall be handled in accordance with § 113.89. The product holding tube and any further system portions affected shall be returned to a condition of commercial sterility before product flow is resumed to the filler or to the aseptic surge tank.

(C) *Loss of proper pressures in the regenerator.* When a regenerator is used, the product may lose sterility whenever the pressure of sterilized product in the regenerator is less than 1 pound per square inch (6.9 kilopascals) greater than the pressure of unsterilized product in the regenerator. In this case, product flow should be diverted away from the filler or aseptic surge tank by means of the flow-diversion system. If for any reason the product is filled into containers, the product shall be segregated from product that received the scheduled process and shall be reprocessed or destroyed. Product flow to the filler or to the aseptic surge tank shall not be resumed until the cause of the improper pressure relationships in the regenerator has been corrected and the affected system(s) has been returned to a condition of commercial sterility.

(D) *Loss of sterile air pressure or other protection level in the aseptic surge tank.* When an aseptic surge tank is used, conditions of commercial sterility may be lost when the sterile air overpressure or other means of protection drops below the scheduled process value. Product flow to and/or from the aseptic surge tank shall not be resumed until the potentially contaminated product in the tank is removed, and the aseptic surge tank has been returned to a condition of commercial sterility.

(E) *Records.* Readings at the following points shall be observed and recorded at the start of aseptic packaging operations and at intervals of sufficient frequency to ensure that these values are as specified in the scheduled process: Temperature-indicating device in holding tube outlet; temperature-recording device in holding tube outlet; differential pressure recorder-controller, if a product-to-product regenerator is used; product flow rate as established by the metering pump or as determined by filling and closing rates and, if an aseptic surge tank is used, sterile air pressure or other protection means; and proper performance of steam seals or other similar devices. The measurements and recordings should be made at intervals not to exceed 1 hour.

(2) *Container sterilizing, filling, and closing operation*—(i) *Equipment*—(A) *Recording device.* The container and closure sterilization system and product filling and closing system shall be instrumented to demonstrate that the required sterilization is being accomplished continuously. Recording devices shall be used to record, when applicable, the sterilization media flow rates, temperature, concentration, or other factors. When a batch system is used for container sterilization, the sterilization conditions shall be recorded.

(B) *Timing method(s).* A method(s) shall be used either to give the retention time of containers, and closures if applicable, in the sterilizing environment specified in the scheduled process, or to control the sterilization cycle at the rate specified in the scheduled process. A means of preventing unauthorized speed changes must be provided. A lock, or a notice from management posted at or near the speed adjusting device that provides a warning that only authorized persons are permitted to make adjustments, is a satisfactory means of preventing unauthorized changes.

(ii) *Operation*—(A) *Startup.* Before the start of packaging operations, both the container and closure sterilizing system and the product filling and closing system shall be brought to a condition of commercial sterility.

(B) *Loss of sterility.* A system shall be provided to stop packaging operations, or alternatively to ensure segregation of any product packaged when the packaging conditions fall below scheduled processes. Compliance with this requirement may be accomplished by diverting product away from the filler, by preventing containers from entering the filler, or by other suitable means. In the event product is packaged under conditions below those specified in the scheduled process, all such product shall be segregated and handled in accordance with § 113.89. In the event of loss of sterility, the system(s) shall be returned to a condition of commercial sterility before resuming packaging operations.

(C) *Records.* Observations and measurements of operating conditions shall be made and recorded at intervals of sufficient frequency to ensure that commercial sterility of the food product is being achieved; such measurements shall include the sterilization media flow rates, temperatures, the container and closure rates (if applicable) through the sterilizing system, and the sterilization conditions if a batch system is used for container sterilization. The measurements and recordings should be made at intervals not to exceed 1 hour.

(3) *Incubation.* Incubation tests should be conducted on a representative sample of containers of product from each code; records of the test results should be maintained.

(4) *Critical factors.* Critical factors specified in the scheduled process shall be measured and recorded on the processing record at intervals of sufficient frequency to ensure that the factors are within the limits specified in the scheduled process. Such measurements and recordings should be done at intervals not to exceed 15 minutes.

(h) *Equipment and procedures for flame sterilizers.* The container conveyor speed shall be specified in the scheduled process. The container conveyor speed shall be measured and recorded at the start of operations and at intervals of sufficient frequency to ensure that the conveyor speed is as specified in the scheduled process. Such measurements and recordings should be done at 1-hour intervals. Alternatively, recording tachometer may be used to provide a continuous record

of the speed. A means of preventing changes in flame intensity and unauthorized speed changes on the conveyor shall be provided. A lock, or a notice from management posted at or near the speed adjusting device that provides a warning that only authorized persons are permitted to make adjustments, is a satisfactory means of preventing unauthorized changes. The surface temperature of at least one container from each conveyor channel shall be measured and recorded at the entry and at the end of the holding period at intervals of sufficient frequency to ensure that the temperatures specified in the scheduled process are maintained. Such measurements and recordings should be done at intervals not to exceed 15 minutes.

(1) *Process interruption.* In the event of process interruption wherein the temperature of the product may have dropped, an authorized, scheduled emergency plan approved by a qualified person having expert knowledge of the process requirements may be used.

(2) *Critical factors.* Critical factors specified in the scheduled process shall be measured and recorded on the processing record at intervals of sufficient frequency to ensure that the factors are within the limits specified in the scheduled process.

(i) *Equipment and procedures for thermal processing of foods wherein critical factors such as water activity are used in conjunction with thermal processing.* The methods and controls used for the manufacture, processing, and packing of such foods shall be as established in the scheduled process and shall be operated or administered in a manner adequate to ensure that the product is safe. The time and temperature of processing and other critical factors specified in the scheduled process shall be measured with instruments having the accuracy and dependability adequate to ensure that the requirements of the scheduled process are met. All measurements shall be made and recorded at intervals of sufficient frequency to ensure that the critical factors are within the limits specified in the scheduled process.

(j) *Other systems.* All systems, whether or not specifically mentioned in this part, for the thermal processing of low-acid foods in hermetically sealed containers shall conform to the applicable requirements of this part and the methods and controls used for the manufacture, processing, and packing of these foods shall be as established in the scheduled process. These systems shall be operated or administered in a manner adequate to ensure that commercial sterility is achieved. Critical factors specified in the scheduled process shall be measured and recorded at intervals of sufficient frequency to ensure that the critical factors are within the limits specified in the scheduled process.

3. Amend § 113.60 by revising paragraph (d) to read as follows:

§ 113.60 Containers.

* * * * *

(d) *Postprocess handling.* Container handling equipment used in handling filled containers shall be designed, constructed, and operated to preserve the can seam or other container closure integrity. Container handling equipment, including automated and non-automated equipment, shall be checked at sufficient frequency and repaired or replaced as necessary to prevent damage to containers and container closures. When cans are handled on belt conveyors, the conveyors should be constructed to minimize contact by the belt with the double seam, i.e., cans should not be rolled on the double seam. All worn and frayed belting, can retarders, cushions, etc. should be replaced with new nonporous material. All tracks and belts that come into contact with the can seams should be thoroughly scrubbed and sanitized at intervals of sufficient frequency to avoid product contamination.

4. Revise § 113.83 to read as follows:

§ 113.83 Establishing scheduled processes.

Scheduled processes for low-acid foods shall be established by qualified persons having expert knowledge of thermal processing requirements for low-acid foods in hermetically sealed containers and having adequate facilities for making such determinations. The type, range, and combination of variations encountered in commercial production shall be adequately provided for in establishing the scheduled process. When a product is reprocessed or a previously processed product is blended into a new formulation, this condition must be covered in the scheduled process. Critical factors, e.g., minimum headspace, consistency, maximum fill-in or drained weight, a_w, etc., that may affect the scheduled process, shall be specified in the scheduled process. Acceptable scientific methods of establishing heat sterilization processes shall include, when necessary, but shall not be limited to, microbial thermal death time data, process calculations based on product heat penetration data, and inoculated packs. Calculation shall be performed according to procedures recognized by competent processing authorities. If incubation tests are necessary for process confirmation, they shall include containers from test trials and from actual commercial production runs during the period of instituting the process. The incubation tests for confirmation of the scheduled processes should include the containers from the test trials and a number of containers from each of four or more actual commercial production runs. The number of containers from actual commercial production runs should be determined on the basis of recognized scientific methods to be of a size sufficient to ensure the adequacy of the process. Complete records covering all aspects of the establishment of the process and associated incubation tests shall be prepared and shall be permanently retained by the person or organization making the determination.

5. Amend § 113.87 by revising paragraphs (c) and (e) to read as follows:

§ 113.87 Operations in the thermal processing room.

* * * * *

(c) The initial temperature of the contents of the containers to be processed shall be accurately determined and recorded with sufficient frequency to ensure that the temperature of the product is no lower than the minimum initial temperature specified in the scheduled process. For those operations that use water during the filling of the retort or during processing, provision shall be made to ensure that the water will not, before the start of each thermal process, lower the initial temperature of the product below that specified in the scheduled process. The temperature-indicating device used to determine the initial temperature shall be tested for accuracy against an accurate calibrated reference device at sufficient frequency to ensure that initial temperature measurements are accurate. Records of the accuracy tests shall be signed or initialed, dated, and maintained.

* * * * *

(e) Clock times on temperature-recording device records shall reasonably correspond to the time of day on the written processing records to provide correlation of these records.

* * * * *

6. Amend § 113.100 by revising paragraphs (a) introductory text, (a)(4), (b), and (c) and by adding paragraphs (f) and (g) to read as follows:

§ 113.100 Processing and production records.

(a) Processing and production information shall be entered at the time

it is observed by the retort or processing system operator, or other designated person, on forms that include the product, the code number, the date, the retort or processing system number, the size of container, the approximate number of containers per coding interval, the initial temperature, the actual processing time, the temperature-indicating device and temperature-recording device readings, and other appropriate processing data. Closing machine vacuum in vacuum-packed products, maximum fill-in or drained weight, or other critical factors specified in the scheduled process shall also be recorded. In addition, the following records shall be maintained:

* * * * *

(4) *Aseptic processing and packaging systems.* Product temperature in the holding tube outlet as indicated by the temperature-indicating device and the temperature-recording device; differential pressure as indicated by the differential pressure recorder-controller, if a product-to-product regenerator is used; product flow rate, as determined by the flow controlling device or by filling and closing rates; sterilization media flow rate or temperature or both; retention time of containers, and closures when applicable, in the sterilizing environment; and, when a batch system is used for container and/or closure sterilization, sterilization cycle times and temperatures.

* * * * *

(b) Temperature-recording device records shall be identified by date, retort number, and other data as necessary, so they can be correlated with the written record of lots processed. Each entry on the processing and production records shall be made by the retort or processing system operator, or other designated person, at the time the specific retort or processing system condition or operation occurs, and this retort or processing system operator or other designated person shall sign or initial each record form. Not later than 1 working day after the actual process, and before shipment or release for distribution, a representative of plant management who is qualified by suitable training or experience shall review all processing and production records for completeness and to ensure that the product received the scheduled process. The records, including temperature-recording device records, shall be signed or initialed and dated by the reviewer.

(c) Written records of all container closure examinations shall specify the product code, the date and time of container closure inspections, the measurements obtained, and all corrective actions taken. Records shall be signed or initialed by the container closure inspector and reviewed by management with sufficient frequency to ensure that the containers are hermetically sealed. The records shall be signed or initialed and dated by the reviewer.

* * * * *

(f) Records of this part may be maintained electronically, provided they are in compliance with part 11 of this chapter.

(g) All records required under this part, or copies of such records, must be readily available during the retention period for inspection and copying by FDA when requested. If reduction techniques, such as microfilming, are used, a suitable reader and photocopying equipment must be made readily available to FDA.

Dated: March 4, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 07–1172 Filed 3–13–07; 8:45 am]

BILLING CODE 4160–01–S

Federal Register

Wednesday,
March 14, 2007

Part IV

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Chapter VII

Placement of Coal Combustion Byproducts in Active and Abandoned Coal Mines; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Chapter VII

RIN 1029–AC54

Placement of Coal Combustion Byproducts in Active and Abandoned Coal Mines

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

ACTION: Advance notice of proposed rulemaking.

SUMMARY: We are seeking comments on our intention to propose regulations pertaining to permit application requirements and performance standards related to the placement of coal combustion byproducts (CCBs) on sites with a surface coal mining operations permit under Title V of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) or in the reclamation of abandoned mine lands (AML) as part of projects funded or approved under Title IV of the Act. We would base the proposed regulations on existing SMCRA authorities. We will consider the comments received in response to this notice in developing the scope and framework of the proposed rule.

DATES: To ensure consideration, we must receive your comments on or before May 14, 2007.

ADDRESSES: You may submit comments, identified by docket number 1029–AC54, by any of the following methods to the indicated address:

- *E–Mail: rules_comments@osmre.gov.* Please include docket number 1029–AC54 in the subject line of the message.
- *Mail/Hand-Delivery/Courier to the OSM Administrative Record Room:* Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 252–SIB, 1951 Constitution Avenue, NW., Washington, DC 20240.
- *Federal e-Rulemaking Portal: http://www.regulations.gov.* The notice is listed under the agency name "Surface Mining Reclamation and Enforcement Office." Click "Add Comments" to submit comments.

FOR FURTHER INFORMATION CONTACT: John Craynon, P.E., Chief, Division of Regulatory Support, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW., MS–202, Washington, DC 20240; Telephone 202–208–2866; E-mail: *jcraynon@osmre.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. What are CCBs?

The legal definition of coal combustion byproducts (CCBs) at 42 U.S.C. 13364(a) provides that "the term 'coal combustion byproducts' means the residues from the combustion of coal including ash, slag, and flue gas desulfurization materials." CCBs are produced when coal is burned. Electrical generating facilities are the primary producers. CCBs from power plants consist of four large-volume waste streams—fly ash, bottom ash (including fluidized-bed combustion residues, when applicable), boiler slag, and flue gas emission control residue.

The University of North Dakota Coal Ash Research Center defines the following five categories of CCBs on its Web site (*http://www.undeerc.org/carrc/html/Terminology.html*):

(1) *Boiler slag*—[M]olten ash collected at the base of slag tap and cyclone boilers that is quenched with water and shatters into black, angular particles having a smooth glassy appearance."

(2) *Bottom ash*—"[A]gglomerated ash particles formed in pulverized coal boilers that are too large to be carried in the flue gases and impinge on the boiler walls or fall through open grates to an ash hopper at the bottom of the boiler. Bottom ash is typically gray to black in color, is quite angular, and has a porous surface structure."

(3) *Fluidized-bed combustion materials*—"[U]nburned coal, ash, and spent bed material used for sulfur control. The spent bed material (removed as bottom ash) contains reaction products from the absorption of gaseous sulfur oxides (SO_2 and SO_3)."

(4) *Flue gas desulfurization materials*—Waste "derived from a variety of processes used to control sulfur emissions from boiler stacks. These systems include wet scrubbers, spray dry scrubbers, sorbent injectors, and a combined sulfur oxide ($SOSO_x$) and nitrogen oxide (NO_X) process. Sorbents include lime, limestone, sodium-based compounds, and high-calcium coal fly ash."

(5) *Fly ash*—"[C]oal ash that exits a combustion chamber in the flue gas and is captured by air pollution control equipment such as electrostatic precipitators, baghouses, and wet scrubbers."

CCBs are also known as "coal combustion residues" (CCRs), which is the term preferred by the National Research Council, and "coal combustion wastes" (CCWs).

II. Why are we publishing this notice?

In 2003, Congress directed the Environmental Protection Agency (EPA) to commission an independent study of the health, safety, and environmental risks associated with the placement of CCWs in active and abandoned coal mines in all major U.S. coal basins. As a result, the National Research Council (NRC) established the Committee on Mine Placement of Coal Combustion Wastes in September 2004. The NRC published the committee's findings on March 1, 2006, in a report entitled "Managing Coal Combustion Residues in Mines," which is available online at *http://newton.nap.edu/openbook/0309100496/html/index.html.*

Page one of the report states that the committee "concluded that putting CCRs in coal mines as part of the reclamation process is a viable management option as long as (1) CCR placement is properly planned and is carried out in a manner that avoids significant adverse environmental and health impacts and (2) the regulatory process for issuing permits includes clear provisions for public involvement." In the same paragraph, the committee notes that the placement of CCRs in coal mines "can assist in meeting reclamation goals (such as remediation of abandoned mine lands)" and "avoids the need, relative to landfills and impoundments, to disrupt undisturbed sites." However, the committee cautioned that "an integrated process of CCR characterization, site characterization, management and engineering design of placement activities, and design and implementation of monitoring is required to reduce the risk of contamination moving from the mine site to the ambient environment." See p. 12 of the report. In addition, page four of the report states that "comparatively little is known about the potential for minefilling to degrade the quality of groundwater and/or surface waters particularly over longer time periods."

The committee recommended the establishment of "enforceable federal standards" to govern the placement of

CCRs in mines. See p. 11 of the report. The following excerpt from pages 11–12 of the report (emphasis in the original) explains both the committee's reasoning for its recommendation and its suggestions for implementation of that recommendation:

After reviewing the laws and other relevant literature, *the committee concludes that although SMCRA does not specifically regulate CCR placement at mine sites, its scope is broad enough to encompass such regulation during reclamation activities.* Furthermore, while SMCRA and its implementing regulations indirectly establish performance standards that could be used to regulate the manner in which CCRs may be placed in coal mines, neither the statute nor those rules explicitly address regulation of the use or placement of CCRs, and some states have expressed concern that they do not have the authority to impose performance standards specific to CCRs. Therefore, the committee recommends that enforceable federal standards be established for the disposal of CCRs in minefills. Enforceable federal standards will ensure that states have adequate, explicit authority and that they implement adequate minimum safeguards. As with current federal regulations, these rules should provide sufficient flexibility to allow states to adapt permit requirements to site-specific conditions, while providing the needed focus on the protection of ecological and human health.

There are three primary regulatory mechanisms that could be used to develop enforceable standards:

- Changes to SMCRA regulations to address CCRs specifically;
- Joint Office of Surface Mining (OSM) and EPA rules pursuant to the authority of SMCRA and RCRA [the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*]; or
- RCRA–D rules that are enforceable through a SMCRA permit. ["RCRA–D" refers to Subtitle D of RCRA at 42 U.S.C. 6941–6949a.]

* * * Regardless of the regulatory mechanism selected, coordination between OSM and EPA efforts is needed and would foster regulatory consistency with EPA's intended rule-making proposal for CCR disposal in landfills and impoundments.

In all cases, guidance documents will also be necessary to help states implement their responsibility for managing CCR[s]. However, guidance alone is not adequate to achieve the needed improvements in state programs for CCR minefills. Only through enforceable standards can acceptable minimum levels of environmental protection from CCR placement in coal mines be guaranteed nationally.

The committee also made other recommendations that relate to and expand upon the recommendation for enforceable federal standards. Among other things, it suggested that:

- "CCRs [should] be characterized prior to significant mine placement and with each new source of CCRs. The CCR characterization should continue periodically throughout the mine placement process to assess any changes in CCR composition and behavior." See p. 6 of the report.
- "[C]omprehensive site characterization specific to CCR placement [should] be conducted at all mine sites prior to substantial placement of CCRs." See p. 7 of the report.
- Management plans for CCR disposal in mines should be site-specific, with site-specific performance standards. *Id.*
- "CCR placement in mines [should] be designed to minimize reactions with water and the flow of water through CCRs." See p. 8 of the report.
- "[T]he number and location of monitoring wells, the frequency and duration of sampling, and the water quality parameters selected for analysis [should] be carefully determined for each site, in order to accurately assess the present and potential movement of CCR-associated contaminants." See p. 9 of the report.
- "[T]he disposal of CCRs in coal mines [should] be subject to reasonable site-specific performance standards that are tailored to address potential environmental problems associated with CCR disposal." *Id.*
- The "placement of CCRs in abandoned and remining sites [should] be subject to the same CCR characterization, site characterization, and management planning standards recommended for active coal mines." See pp. 9–10 of the report.
- "[A]ny proposal to dispose of substantial quantities of CCRs in coal mines [should] be treated as a 'significant alteration of the reclamation plan' under SMCRA" to ensure that the public is afforded adequate notice of, and an opportunity to comment on, the CCR placement proposal. See p. 11 of the report.

We are publishing this advance notice of proposed rulemaking in response to the NRC recommendations summarized above. We invite comment on how these recommendations should be implemented, i.e., how we should revise the regulations implementing Titles IV and V of SMCRA to regulate the placement of CCBs on active and abandoned coal minesites and what type of guidance documents we should issue, if any. We also seek comment on our tentative preferred approach regarding the proposed regulations, as discussed in Part VII of this notice, or whether other approaches would be more appropriate. In developing your comments, we urge you to review the entire NRC report, the background provided in this notice, and the information available on the EPA Web site at *http://www.epa.gov/epaoswer/other/fossil/index.htm* and our Web site at *http://www.mcrcc.osmre.gov/ccb/*.

III. Background on SMCRA

In fashioning SMCRA, Congress created two major programs:

- An *abandoned mine land reclamation program*, primarily in Title IV of the Act, funded by fees that operators pay on each ton of coal mined, to reclaim land and water resources adversely affected by coal mines abandoned before August 3, 1977, and left in an inadequately reclaimed condition.
- A *regulatory program*, primarily in Title V of the Act, to ensure that surface coal mining operations initiated or in existence after the effective date of the Act (August 3, 1977) are conducted and reclaimed in an environmentally sound manner.

Section 501 of SMCRA, 30 U.S.C. 1251, created a limited initial regulatory program directly administered and enforced by OSM. However, Congress intended that this initial regulatory program be only a temporary measure until States adopted permanent regulatory programs consistent with the Act. Section 101(f) of SMCRA, 30 U.S.C. 1201(f), specifies that because of the diversity in terrain, climate, biology, geochemistry, and other physical conditions under which mining operations occur, the primary governmental responsibility for regulating surface mining and reclamation operations should rest with the States. To achieve primary regulatory responsibility, often referred to as primacy, a State must develop and obtain Secretarial approval of a program under section 503 of the Act, 30 U.S.C. 1253, that meets the requirements of the Act and that is no less effective than the Federal regulations in achieving the requirements of the Act. Among other things, each regulatory program must include permitting requirements and performance standards for surface coal mining and reclamation operations. To date, 24 of the 26 coal-producing states have achieved primacy.

Following approval of a State regulatory program, we assume a monitoring role. Section 517(a) of SMCRA, 30 U.S.C. 1267(a), requires that we make such inspections as are necessary to evaluate the administration of approved State programs. The primary purpose of both the State program review and approval process and the oversight of State programs is to ensure that all States attain and maintain environmental protection requirements and inspection and

enforcement efforts consistent with the Act.

States with primacy are eligible to apply for the authority to administer AML reclamation programs within their borders. Once the Secretary approves their AML reclamation plans under section 405 of SMCRA, 30 U.S.C. 1235, those States are also eligible to receive grants for AML reclamation programs and projects. SMCRA does not establish requirements for AML reclamation projects analogous to the permitting requirements and performance standards that apply to surface coal mining operations. However, in consultation with the States, we have developed a guidance document entitled "Final Guidelines for Reclamation Programs and Projects," which contains provisions and recommendations relating to protection of public health, safety, and the environment as part of project planning, design, and construction. See 66 FR 31250–31258, June 11, 2001. Our regulations at 30 CFR 874.13(a) encourage the use of the guidelines, but, as stated at 66 FR 31251, the guidelines do not establish new legal requirements or obligations.

IV. Which provisions of SMCRA authorize the adoption of regulations governing the use and disposal of CCBs?

SMCRA does not directly address the placement of CCBs in active or abandoned coal mines. (In the context of this notice, an "active" mine is a surface coal mining and reclamation operation with a SMCRA permit.) Sections 515(b)(11) and 516(b)(4) of SMCRA contain requirements applicable to "surface disposal of mine wastes, tailings, coal processing wastes, and *other wastes*" on permitted mine sites, but only when those wastes are placed in "areas *other than* the mine workings or excavations." 30 U.S.C. 1265(b)(11) and 1266(b)(4) (emphasis added). Consequently, those provisions would not apply to most CCB placements in active mines, because CCBs are most frequently placed in mine workings or excavations. However, as discussed below, we believe that other provisions of SMCRA provide adequate authority for the adoption of regulations governing the placement of CCBs with respect to both permitted mines and abandoned mine reclamation projects conducted under an AML reclamation plan approved under section 405 of SMCRA.

A. Provisions Applicable to Both Active Mines and AML Reclamation Projects

Section 102 of SMCRA, 30 U.S.C. 1202, sets forth the purposes of the Act. Those purposes relevant to this notice are summarized below:

- Paragraph (a) states that one purpose is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations."
- Paragraph (b) states that another purpose is to "assure that the rights of surface landowners and other persons with a legal interest in the land or appurtenances thereto are fully protected from [surface coal mining] operations."
- Paragraph (d) states that another purpose is to assure that surface coal mining operations are conducted in a manner that protects the environment.
- Paragraph (e) states that another purpose is to "assure that adequate procedures are undertaken to reclaim surface areas as contemporaneously as possible with the surface coal mining operations."
- Paragraph (h) states that another purpose is to "promote the reclamation of mined areas left without adequate reclamation prior to the enactment of [SMCRA] and which continue, * * * to substantially degrade the quality of the environment, prevent or damage the beneficial use of land or water resources, or endanger the health or safety of the public."

Section 201(c)(2) of the Act authorizes the Secretary, acting through OSM, to "publish and promulgate such rules and regulations as may be necessary to carry out the purposes and provisions of the Act." 30 U.S.C. 1211(c)(2). Therefore, should we find it necessary to achieve one of the purposes in section 102 of the Act listed above, section 201(c)(2) provides a basis for the adoption of rules governing the placement of CCBs both as part of surface coal mining and reclamation operations for which a permit is required under Title V of SMCRA and on abandoned mine lands where the placement occurs in connection with a project conducted under an abandoned mine reclamation program approved under section 405 of SMCRA.

B. Provisions Applicable Only to Active Mines (Title V)

Section 501(b) of SMCRA requires the Secretary to publish regulations "covering a permanent regulatory procedure for surface coal mining and reclamation operations performance standards based on and conforming to the provisions of title V * * *." 30 U.S.C. 1251(b). This provision, taken together with, at a minimum, sections 507(b)(11), 508(a)(13), 510(b)(3), 515(b)(10) and (14), and 516(b)(9) and (10) of SMCRA, 30 U.S.C. 1257(b)(11), 1258(a)(13), 1260(b)(3), 1265(b)(10) and (14), and 1266(b)(9) and (10), provides express authority to impose performance standards to protect the hydrologic balance and to require sufficient permit application information to conclude that the proposed surface coal mining and reclamation operations will be conducted in a manner that protects the hydrologic balance. Therefore, we believe we have the authority under SMCRA to adopt regulations containing specific requirements to monitor and control the placement of CCBs in mines with SMCRA permits to protect against adverse impacts to surface waters and groundwater.

C. Provisions Applicable Only to AML Reclamation Projects (Title IV)

With respect to the reclamation of AML sites, section 405(a) of SMCRA requires the Secretary to publish "regulations covering implementation of an abandoned mine reclamation program * * * and establishing procedures and requirements for * * * annual submissions of projects." 30 U.S.C. 1235(a). Also, section 413(a) authorizes the Secretary "to do all things necessary or expedient, including promulgation of rules and regulations, to implement and administer the provisions of this title [Title IV]." 30 U.S.C. 1242(a).

Sections 403(a) and 411(c) of SMCRA, 30 U.S.C. 1233(a) and 1240a(c), do not provide any rulemaking authority, but they do establish priorities for project funding, with an emphasis first on protection of public health and safety from the adverse effects of past mining practices, followed by restoration of land and water resources and the environment previously degraded by the adverse effects of mining practices. By logical extension, AML reclamation projects involving the placement of CCBs should be designed and constructed in a manner that would not create new threats to public health or safety or the environment. However, our authority to establish requirements for AML reclamation project designs is somewhat limited by section 405(i), which provides that "States shall not be required at the start of any project to submit complete copies of plans and specifications." 30 U.S.C. 1235(i). We seek comment on whether this provision would prohibit the adoption of any regulations analogous to the permit application requirements of the

regulatory program or whether there is sufficient latitude to require that project submissions include site-specific plans and requirements concerning the placement of CCBs, consistent with the recommendations of the NRC report.

V. How is the use of CCBs currently regulated at mines with SMCRA permits?

Generally, CCB disposal operations are regulated under State solid waste management programs under Subtitle D of RCRA. 42 U.S.C. 6941 *et seq.* If the disposal site is a mine with a SMCRA permit, then the requirements of the applicable SMCRA regulatory program also apply.

On August 9, 1993, EPA published a final regulatory determination for coal combustion wastes that concluded that the State industrial solid waste management programs implemented under Subtitle D of RCRA contained adequate regulatory controls for managing the disposal of those CCBs. For that reason, EPA determined that regulation of CCBs under the hazardous waste provisions of RCRA was not warranted. See 58 FR 42466, August 9, 1993 for further discussion regarding EPA's basis for reaching this conclusion. However, this determination applied only to large-volume coal combustion wastes generated at electric utility and independent power-producing facilities that manage the wastes separately from certain other low-volume and uniquely associated coal combustion wastes. *Id.*

On May 22, 2000, EPA published another regulatory determination that addressed those CCBs that were not included in the 1993 regulatory determination. This determination similarly concluded that regulation of those types of CCBs as hazardous waste under Subtitle C of RCRA was not warranted. See 65 FR 32214. However, EPA also concluded that establishment of national regulations to govern the use of CCBs to fill surface and underground mines was appropriate. EPA reached this decision because it found that CCBs used as minefill could present a danger to human health or the environment under certain circumstances and because there were few states that currently operate comprehensive programs that specifically address the unique circumstances of minefilling with CCBs. See 65 FR 32231. EPA noted that a comprehensive national program could be developed by adopting regulations under Subtitle D of RCRA, by modifying SMCRA regulations, or by a combination of both. See 65 FR 32215, 32232. Currently, EPA and OSM are coordinating with each other and with other interested parties in the implementation of this determination. You can find more information regarding the history of CCB regulation under RCRA, including links to referenced documents, on EPA's Web site at *http://www.epa.gov/epaoswer/other/fossil/index.htm.*

There is no express mention of CCBs in SMCRA and only two of our regulations directly reference CCBs: 30 CFR 816.41(i)(2)(iii) and (v) and 30 CFR 817.41(h)(2)(iii) and (v), which specify that fly ash from a coal-fired facility and flue-gas desulfurization sludge may be discharged into an underground coal mine if certain demonstrations are made. The paucity of references to CCBs does not mean that SMCRA regulatory programs do not apply to placement of CCBs on permitted minesites. In fact, the opposite is true, as litigation has established that any material placed in mine pits or otherwise used to reclaim a permitted minesite must comply with SMCRA permitting requirements and performance standards, regardless of whether the material originates within the permit area or whether it is imported from outside the permit area, and that we have the authority to establish monitoring and analysis requirements for those materials. See *Pacific Coal Co.* v. *OSM*, Civ. No. 03–0260Z, (W.D. Wash. Feb. 2, 2004). As with all material being placed in the backfill, CCBs must be characterized to assure compliance with the performance standards.

In luncheon remarks published in the proceedings of the interactive forum on Coal Combustion By-Products Associated with Coal Mining (October 29–31, 1996), Katherine L. Henry, then the Acting Director of OSM, summarized the SMCRA requirements that apply to CCB disposal in a mine with an SMCRA permit:

> When the use or disposal of coal-combustion by-products happens at surface coal mines, state coal mining regulators are involved to the extent that SMCRA requires:
>
> • The mine operator to ensure that all toxic materials are treated, buried, and compacted, or otherwise disposed of, in a manner designed to prevent contamination of the ground or surface water.
>
> • Making sure the proposed land use does not present any actual or probable threat of water pollution.
>
> • And ensuring the permit application contains a detailed description of the measures to be taken during mining and reclamation to assure the protection of the quality and quantity of surface and ground water systems, both on- and off-site, from adverse effects of the mining and reclamation process and also to assure the rights of present users of such water are protected.

See *http://www.mcrcc.osmre.gov/PDF/Forums/CCB/Luncheon.PDF.*

On February 6, 2001, OSM's Western Region issued a policy guidance document that applies to CCB disposal operations being conducted concurrently with surface coal mining and reclamation operations on lands where OSM's Western Region is the regulatory authority under SMCRA; i.e., on Indian lands, in states with Federal programs, and on Federal lands in states without a cooperative agreement under section 523 of SMCRA. The document, which is entitled "Guidance On Disposal of Coal Combustion Byproducts In the Western United States When OSM Western Region is the Regulatory Authority," may be reviewed online at *http://www.wrcc.osmre.gov/Guidances/CCBguidance.html.* It provides guidance to ensure that CCB disposal at surface coal mines will comply with the requirements of SMCRA and the applicable regulatory program approved under SMCRA. Among other things, it identifies the SMCRA regulations that apply to CCB placement in mines and explains how those regulations apply.

OSM has no authority to regulate CCB disposal in mines for which no permit is required under Title V of SMCRA. However, we believe regulation under Title V of SMCRA can serve as a template for state regulation of other minesites, in coordination with EPA, under other authorities available to the states.

As a supplement to the regulatory efforts discussed above, OSM has taken an active role in encouraging and promoting technological advances, research, and technology transfer related to the placement of CCBs in mines. A multi-interest group known as the Coal Combustion By-Product Steering Committee has conducted six national interactive forums on CCB-related topics and edited, published, and distributed the forum proceedings. The Committee also provided technical assistance to the American Society of Testing Methods on draft guidance for CCB use in mines and developed and manages a Web site (*http://www.mcrcc.osmre.gov/ccb/*) dedicated to providing a user-friendly guide to CCB literature, organizations, EPA rulemaking, and educational events.

VI. What are the benefits of placing CCBs in active and abandoned coal mines?

The use of properly managed CCBs on both active and abandoned mines can contribute to successful reclamation. For example, alkaline CCBs with cement-like properties can be used to encapsulate acid-forming or other toxic-forming materials to isolate those

materials from contact with water and thus reduce or eliminate the formation of acidic or toxic mine drainage. When used as an alkaline addition to mine spoil, CCBs can improve soil quality and productivity as a medium for vegetation. In addition, CCBs can serve as base material for the construction of haul and access roads to support the heavy trucks and machinery used in mining. In thin overburden situations, the use of CCBs to backfill the pit can assist in restoring mined lands to elevations and grades similar to those that existed before mining, i.e., the approximate original contour.

Abandoned mine lands with exposed acidic spoils that result in acid mine drainage (AMD), contaminated streams, and barren or unproductive land also can benefit from the addition of CCBs. Alkaline CCBs can neutralize acidic and toxic-forming materials, thereby reducing AMD formation and improving the ability of the land to support a wider array of vegetation and land uses.

Even when there is no site-specific beneficial aspect to CCB placement in mines, the use of mines as CCB disposal sites benefits the environment by preventing the surface disruption that would otherwise result from disposal of CCBs in landfills and surface impoundments, which normally are constructed on previously undisturbed sites or sites with productive land uses.

VII. How do we plan to revise our regulations to implement the NRC recommendations?

After discussions with EPA and state regulatory authorities under SMCRA, we have tentatively decided to propose to revise our regulations so that they will expressly provide for the placement of CCBs as part of surface coal mining and reclamation operations permitted under Title V of SMCRA and in the reclamation of abandoned mine lands under an AML reclamation program approved under section 405 of the Act. We intend for these regulations to minimize the possibility that the placement of CCB could cause adverse impacts on public health and the environment.

With respect to CCB placement in mines with SMCRA permits, we are considering the adoption of regulations that would specifically identify the permit application requirements and performance standards in our existing regulations in 30 CFR Chapter VII that apply to the use and disposal of CCBs in mines. The OSM Western Region policy guidance document discussed in Part V of this notice lists the Federal regulations that we believe are most germane to the placement of CCBs in mines. We seek comment on that list and on whether our existing permit application requirements and performance standards are sufficient to ensure proper management of CCBs. If you believe that additional requirements and standards are needed, please identify those requirements and why you believe they are needed.

In addition, consistent with the NRC recommendation emphasizing the need for public involvement in permitting decisions, we are considering modifying 30 CFR 774.13(b) to specify that permit revision applications proposing the placement of CCBs must be processed as significant revisions, which means that they would be subject to all the notice and public participation requirements that apply to applications for new permits.

With respect to CCB placement on abandoned mine lands, we are considering revising 30 CFR Part 874 to include minimum requirements that would apply to any AML reclamation project funded or otherwise conducted under an AML reclamation plan and program approved under section 405 of SMCRA. Those requirements would apply to any reclamation project funded under the grants awarded pursuant to section 405(h) and to AML reclamation projects conducted under the provisions of 30 CFR 874.17. The requirements would not apply to other types of AML reclamation projects, as those projects would be outside the scope of SMCRA. However, we believe that any requirements that we develop could serve as a template for states to impose comparable requirements for the use and disposal of CCBs on other abandoned mine lands under other provisions of law.

In addition, we are evaluating the impacts of the Surface Mining Control and Reclamation Act Amendments of 2006, Pub. L. No. 109–432, Division C, Title II, Subtitle A, on OSM's authority to regulate CCB placement on reclamation projects approved or funded under Title IV.

We invite comment on the approach described above.

Comments received in response to this notice will help us scope and frame the proposed rule. We encourage commenters to be as detailed as possible and to explain how any suggested regulatory changes relate to the NRC recommendations and the rulemaking authority that we have under SMCRA.

Consistent with the requirements of the Administrative Procedure Act, we will publish in the **Federal Register** any proposed regulations that we may subsequently draft and provide the public with a 60-day period to review and comment on those proposed regulations.

As recommended in the NRC report, we are coordinating our rulemaking actions with EPA.

VIII. Will comments on this notice be available for review?

Yes. We will log all comments that are received prior to the close of the comment period into the administrative record; however, we cannot ensure that comments received after the close of the comment period (see **DATES**) or at locations other than those listed above (see **ADDRESSES**) will be included in the administrative record and considered.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: March 5, 2007.

C. Stephen Allred,

Assistant Secretary, Land and Minerals Management.

[FR Doc. E7–4669 Filed 3–13–07; 8:45 am]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT MARCH 14, 2007

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Tribenuron methyl; published 3-14-07

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Drawbridge operations:

Florida; published 2-13-07

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Migratory bird hunting and conservation stamp (Federal Duck Stamp) contest; regulations revision; published 2-12-07

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Agricultural Marketing Service

Beef promotion and research; comments due by 3-19-07; published 1-18-07 [FR E7-00598]

Hazelnuts grown in Oregon and Washington; comments due by 3-23-07; published 1-22-07 [FR E7-00763]

Olives grown in California; comments due by 3-22-07; published 3-7-07 [FR E7-03936]

Potatoes (Irish) grown in Washington; comments due by 3-19-07; published 1-16-07 [FR E7-00425]

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Alaska National Interest Lands Conservation Act; Title VIII implementation (subsistence priority):

Fish and shellfish; subsistence taking; comments due by 3-23-07; published 12-19-06 [FR 06-09760]

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Emergency acquisitions; comments due by 3-23-07; published 1-22-07 [FR E7-00730]

Information assurance contractor training and certification; comments due by 3-23-07; published 1-22-07 [FR E7-00732]

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TRICARE program—

Survivors of deceased active duty members and adoption intermediaries; comments due by 3-20-07; published 1-19-07 [FR E7-00709]

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Naval Air Station Key West, FL; danger zone and restricted area; comments due by 3-23-07; published 2-21-07 [FR E7-02874]

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Continuous process improvements; comments due by 3-19-07; published 1-18-07 [FR E7-00612]

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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. 49/P.L. 110–7

To designate the facility of the United States Postal Service located at 1300 North Frontage Road West in Vail, Colorado, as the "Gerald R. Ford, Jr. Post Office Building". (Mar. 7, 2007; 121 Stat. 62)

H.R. 335/P.L. 110–8

To designate the facility of the United States Postal Service located at 152 North 5th Street in Laramie, Wyoming, as the "Gale W. McGee Post Office". (Mar. 7, 2007; 121 Stat. 63)

H.R. 433/P.L. 110–9

To designate the facility of the United States Postal Service located at 1700 Main Street in Little Rock, Arkansas, as the "Scipio A. Jones Post Office Building". (Mar. 7, 2007; 121 Stat. 64)

H.R. 514/P.L. 110–10

To designate the facility of the United States Postal Service located at 16150 Aviation Loop Drive in Brooksville, Florida, as the "Sergeant Lea Robert Mills Brooksville Aviation Branch Post Office". (Mar. 7, 2007; 121 Stat. 65)

H.R. 577/P.L. 110–11

To designate the facility of the United States Postal Service located at 3903 South Congress Avenue in Austin, Texas, as the "Sergeant Henry Ybarra III Post Office Building". (Mar. 7, 2007; 121 Stat. 66)

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110th Congress

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