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4. An introduction to the finding aids of the FR/CFR system.

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

WHEN: Tuesday, March 18, 2008
9:00 a.m.–Noon

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

RESERVATIONS: (202) 741–6008

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2007–0279; Airspace No. 07–AEA–19]

Amendment of Class E Airspace; Franklin, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule, request for comments.

SUMMARY: This action modifies Class E Airspace at Franklin, PA. The existing controlled airspace from nearby Venango Regional Airport does not adequately support a new Area Navigation (RNAV) Global Positioning System (GPS) Special Instrument Approach Procedure (IAP) that has been developed for medical flight operations for the Northwest Medical Center. This action will enhance the safety and management of Instrument Flight Rule (IFR) operations by providing the required controlled airspace to protect for this approach at Franklin, PA. Additionally this action imparts a technical correction to the airport name.

DATES: Effective 0901 UTC, June 05, 2008. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments. Comments for inclusion in the Rules Docket must be received on or before April 7, 2008.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2007–0279; Airspace Docket No. 07–AEA–19, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.*

You may review the public docket containing the rule, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

FOR FURTHER INFORMATION CONTACT: Daryl Daniels, System Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; Telephone (404) 305–5581; Fax (404) 305–5572.

SUPPLEMENTARY INFORMATION:

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comments, and, therefore, issues it as a direct final rule. The FAA has determined that this rule only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Unless a written adverse or negative comment or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the effective date. If the FAA receives, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a direct final rule, and was not preceded by a notice of proposed rulemaking, interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. An electronic copy of this document may be downloaded from and comments may be submitted and reviewed via *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov* or the Federal Register's web page at *http://www.gpoaccess.gov/fr/index.html.* Communications should identify both docket numbers and be submitted in triplicate to the address specified under the caption **ADDRESSES** above or you may comment through the Web site. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. Those wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2007–0279; Airspace Docket No. 07–AEA–19." The postcard will be date stamped and returned to the commenter.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 amends Class E5 airspace at Franklin, PA, providing the controlled airspace required to support the new Copter Area Navigation (RNAV) Global Positioning System (GPS) 089 Point in Space (PinS) approach developed to facilitate helicopter arrival and departures at the Northwest Medical Center in Franklin. Although Class E airspace exists near the area, it is insufficient for the protection for this approach which will serve medical flights. Controlled

airspace, known as Class E5 airspace, extending upward from 700 feet Above Ground Level (AGL) is required to encompass all Instrument Approach Procedures (IAPs) to the extent practical and for general Instrument Flight Rule (IFR) operations. The FAA is amending Title 14, Code of Federal Regulations (14 CFR) part 71 to modify existing Class E5 airspace by adding a 6-mile radius around the Point in Space Coordinates that serve the Northwest Medical Center in Franklin, PA. Designations for Class E airspace areas extending upward from 700 feet or more above the surface of the Earth are published in FAA Order 7400.9R, signed August 15, 2007, effective September 15, 2007, which is incorporated by reference in 14 CFR part 71.1. The Class E designations listed in this document will be published subsequently in the Order.

In 1994, Venango County changed the name of the airport from Chess-Lamberton Airport to Venango Regional Airport and this rule provides for that technical correction for the existing Class E2 airspace and this amended Class E5 airspace.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, in non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Franklin, PA near the Northwest Medical Center.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9R, Airspace Designations and Reporting Points, signed August 15, 2007, effective September 15, 2007, is amended as follows:

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

AEA PA E2 Franklin, PA [Amended]

Venango Regional Airport, Franklin, PA
(Lat. 41°22′40″ N., long. 79°51′37″ W.)
Franklin VOR
(Lat. 41°26′19″ N., long. 79°51′24″ W.)

Within a 4-mile radius of Venango Regional Airport and within 2.7 miles each side of the Franklin VOR 360° and 180° radials extending from the 4-mile radius to 7.4 miles north of the VOR. This Class E airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

AEA PA E5 Franklin, PA [Amended]

Venango Regional Airport, Franklin, PA
(Lat. 41°22′40″ N., long. 79°51′37″ W.)
Franklin VOR
(Lat. 41°26′19″ N., long. 79°51′24″ W.)
Northwest Medical Center Heliport
(Lat. 41°24′32″ N., long. 79°49′58″ W.)
Point in Space Coordinates
(Lat. 41°23′54″ N., long. 79°50′58″ W.)

That airspace extending upward from 700 feet above the surface of the Earth within a 6.5-mile radius of Venango Regional Airport and within 3.1 miles each side of the Franklin VOR 360° radial extending from the 6.5-mile radius to 10 miles north of the VOR and that airspace within a 6-mile radius of the Point in Space Coordinates (lat. 41°23′54″ N., long. 79°50′58″ W.) serving the Northwest Medical Center.

* * * * *

Issued in College Park, Georgia, on January 31, 2008.

Barry A. Knight,

Acting Manager, System Support Group, Eastern Service Center.

[FR Doc. 08–766 Filed 02–20–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–0064; Airspace Docket No. 08–ANE–95]

Establishment of Class E Airspace; Bridgton, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule, request for comments.

SUMMARY: This action establishes Class E Airspace at Bridgton, ME to support a new Area Navigation (RNAV) Global Positioning System (GPS) Special Instrument Approach Procedure (IAP) that has been developed for medical fight operations into the Bridgton Hospital. This action enhances the safety and management of Instrument Flight Rule (IFR) operations by providing that required controlled airspace to protect for this approach around Bridgton, ME.

DATES: Effective 0901 UTC, June 5, 2008. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments. Comments for inclusion in the Rules Docket must be received on or before April 7, 2008.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation,

Docket Operations, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2008–0064; Airspace Docket No. 08–ANE–95, at the beginning of your comments. You must also submit and review received comments through the Internet at *http://www.regulations.gov.*

You may review the public docket containing the rule, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

FOR FURTHER INFORMATION CONTACT: Melinda Giddens, System Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5610.

SUPPLEMENTARY INFORMATION:

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comments, and, therefore, issues it as a direct final rule. The FAA has determined that this rule only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Unless a written adverse or negative comment or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the effective date. If the FAA receives, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a direct final rule, and was not preceded by a notice of proposed rulemaking, interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. An electronic copy of this document may be downloaded from and comments may be submitted and reviewed at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov.* or the Federal Register's web page at *http://www.gpoaccess.gov/fr/index.html.* Communications should identify both docket numbers and be submitted in triplicate to the address specified under the caption **ADDRESSES** above or through the Web site. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. Those wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2008–0064; Airspace Docket No. 08–ANE–95." The postcard will be date stamped and returned to the commenter.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E airspace at Bridgton, ME providing the controlled airspace required to support the new Copter Area Navigation (RNAV) Global Positioning System (GPS) 051 Point in Space (PinS) approach developed for the Bridgton Hospital. In today's environment where speed of treatment for medical injuries is imperative, landing sites have been developed for helicopter medical Lifeguard flights or Lifeflights at the local hospitals; this is one of those sites. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is required for Instrument Flight Rules (IFR) operations and to encompass all Instrument Approach Procedures (IAPs) to the extent practical, therefore, the FAA is amending Title 14, Code of Federal Regulations (14 CFR) part 71 to establish a 6-mile radius Class E5 airspace at Bridgton, ME. Designations for Class E airspace areas extending upward from 700 feet or more above the surface of the Earth are published in FAA Order 7400.9R, signed August 15, 2007 effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The Class E designations listed in this document will be published subsequently in the Order.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipant impact is so minimal. Since this a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace near the Bridgton Hospital in Bridgton, ME.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

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

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

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

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

§71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9R, Airspace Designations and Reporting Points, signed August 15, 2007, effective September 15, 2007, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ANE ME E5 Bridgton, ME [New]

Bridgton Hospital
(Lat. 44°02′44″ N., long 70°42′54″ W.)
Point in Space Coordinates
(Lat. 44°02′27″ N., long 70°43′43″ W.)

That airspace extending upward from 700 feet above the surface of the Earth within a 6-mile radius of the Point in Space Coordinates (Lat. 44°02′27″ N., long 70°43′43″ W.) serving the Bridgton Hospital.

* * * * *

Issued in College Park, Georgia, on January 31, 2008.

Barry A. Knight,

Acting Manager, System Support Group, Eastern Service Center.

[FR Doc. 08–724 Filed 2–20–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–0067; Airspace Docket No. 08–ANE–98]

Establishment of Class E Airspace; Rockport, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule, request for comments.

SUMMARY: This action establishes Class E Airspace at Rockport, ME, to support a new Area Navigation (RNAV) Global Positioning System (GPS) Special Instrument Approach Procedure (IAP) that has been developed for medical flight operations into the Penobscot Bay Medical Center. This action enhances the safety and management of Instrument Flight Rule (IFR) operations by providing that required controlled airspace to protect for this approach around Rockport, ME.

DATES: Effective 0901 UTC, June 5, 2008. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments. Comments for inclusion in the Rules Docket must be received on or before April 7, 2008.

ADDRESSES: Send comments to this rule to: U.S. Department of Transportation, Docket Operations, West Building, Ground Floor, Room W12–140, 1200 New Jersey, SE., Washington, DC 20590–0001; Telephone 1–800–647–5527; Fax; 202–493–2251. You must identify the Docket Number FAA–2008–0067; Airspace Docket No. 08–ANE–98, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.*

You may review the public docket containing the rule, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

FOR FURTHER INFORMATION CONTACT: Melinda Giddens, System Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5610.

SUPPLEMENTARY INFORMATION:

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comments, and, therefore, issues it as a direct final rule. The FAA has determined that this rule only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Unless a written adverse or negative comment or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the effective date. If the FAA receives, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a direct final rule, and was not preceded by a notice of proposed rulemaking, interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. An electronic copy of this document may be downloaded from and comments may be submitted and reviewed at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Federal Register's web page at *http://www.gpoaccess.gov/fr/index.html.* Communications should identify both docket numbers and be submitted in triplicate to the address specified under the caption **ADDRESSES** above or through the Web site. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed. All comments submitted will be available, both before and after the closing date for comments, in the Rules docket for examination by interested persons. Those wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2008–0067; Airspace Docket No. 08–ANE–98." The postcard

will be date stamped and returned to the commenter.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E airspace at Rockport, ME providing the controlled airspace required to support the new Copter Area Navigation (RNAV) Global Positioning System (GPS) 287 Point in Space (PinS) approach developed for the Penobscot Bay Medical Center. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is required for Instrument Flight Rules (IFR) operations and to encompass all Instrument Approach Procedures (IAPs) to the extent practical, therefore, the FAA is amending Title 14, Code of Federal Regulations (14 CFR) part 71 to establish a 6-mile radius Class E5 airspace at Rockport, ME. Designations for Class E airspace areas extending upward from 700 feet or more above the surface of the Earth are published in FAA Order 7400.9R, signed August 15, 2007 effective September 15, 2007, which is incorporated by reference in 14 CFR part 71.1. The Class E designations listed in this document will be published subsequently in the Order.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace near the Penobscot Bay Medical Center in Rockport, ME.

List of Subjects in 14 CFR Part 71

Airspace Incorporation by reference, Navigation (Air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9R, Airspace Designations and Reporting Points, signed August 15, 2007, effective September 15, 2007, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ABE ME E5 Rockport, ME [New]

Penobscot by Medical Center
(Lat. 44°08′35″ N., long. 69°05′07″ W.)
Point in Space coordinates
(Lat. 44°08′35″ N., long. 69°04′13″ W.)

That airspace extending upward from 700 feet above the surface of the Earth within a 6-mile radius of the Point in Space Coordinates (lat. 44°08′35″ N., long. 69°04′13″ W.) serving the Penobscot Bay Medical Center.

* * * * *

Issued in College Park, Georgia, on January 31, 2008.

Barry A. Knight,

Acting Manager, System Support Group, Eastern Service Center.

[FR Doc. 08–725 Filed 2–20–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2007–0310; Airspace Docket No. 07–AEA–21]

Amendment of Class E Airspace; Bradford, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule, request for comments.

SUMMARY: This action modifies Class E Airspace at Bradford, PA. The existing controlled airspace from nearby Bradford Regional Airport does not adequately support a new Area Navigation (RNAV) Global Positioning System (GPS) Special Instrument Approach Procedure (IAP) that has been developed for medical flight operations for the University of Pittsburgh. This action will enhance the safety and management of Instrument Flight Rule (IFR) operations by providing the required controlled airspace to support this approach at Bradford, PA.

DATES: Effective 0901 UTC, June 05, 2008. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments. Comments for inclusion in the Rules Docket must be received on or before April 7, 2008.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2007–0310; Airspace Docket No. 07–AEA–21, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.*

You may review the public docket containing the rule, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5

p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

FOR FURTHER INFORMATION CONTACT: Melinda Giddens, System Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; Telephone (404) 305–5610; Fax (404) 305–5572.

SUPPLEMENTARY INFORMATION:

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comments, and, therefore, issues it as a direct final rule. The FAA has determined that this rule only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Unless a written adverse or negative comment or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the effective date. If the FAA receives, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a direct final rule, and was not preceded by a notice of proposed rulemaking, interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. An electronic copy of this document may be downloaded from and comments may be submitted and reviewed via *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov* or the Federal Register's web page at *http://www.gpoaccess.gov/fr/index.html*. Communications should identify both docket numbers and be submitted in triplicate to the address specified under the caption **ADDRESSES** above or you may comment through the Web site. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. Those wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2007–0310; Airspace Docket No. 07–AEA–21." The postcard will be date stamped and returned to the commenter.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 amends Class E5 airspace at Bradford, PA, providing the controlled airspace required to support the new Copter Area Navigation (RNAV) Global Positioning System (GPS) 226 Point in Space (PinS) approach developed to facilitate helicopter arrival and departures at the University of Pittsburgh in Bradford. Although Class E airspace exists near the area, it is insufficient for the protection for this approach that will serve medical flights. Controlled airspace, known as Class E5 airspace, extending upward from 700 feet Above Ground Level (AGL) is required to encompass all Instrument Approach Procedures (IAPs) to the extent practical and for general Instrument Flight Rule (IFR) operations. The FAA is amending part 71 Title 14, Code of Federal Regulations (14 CFR part 71) , by establishing a 6-mile radius Class E5 airspace area around the Point in Space Missed Approach Point (MAP), HIVIT Waypoint, that serves the University of Pittsburgh in Bradford, PA. Designations for Class E airspace areas extending upward from 700 feet or more above the surface of the Earth are published in FAA Order 7400.9R, signed August 15, 2007, effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The Class E designations listed in this document will be published subsequently in the Order.

Agency Findings

The regulations adopted herein will not have substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Bradford, PA near the University of Pittsburgh.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

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

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

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

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

§71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9R, Airspace Designations and Reporting Points, signed August 15, 2007, effective September 15, 2007, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

AEA PA E5 Bradford, PA [Amended]

Bradford Regional Airport, Bradford, PA
(Lat. 41°48′11″ N., long. 78°38′24″ W.)
Bradford VORTAC
(Lat. 41°47′11″ N., long. 78°37′10″ W.)
BRAFO LOM
(Lat. 41°45′18″ N., long. 78°34′24″ W.)
HIVIT Waypoint
(Lat. 41°57′51″ N., long. 78°39′15″ W.)

That airspace extending upward from 700 feet above the surface of the Earth within a 6.5-mile radius of the Bradford Regional Airport and within 3.1 miles each side of the Bradford Regional Airport southeast localizer course extending from the BRAFO LOM to 10 miles southeast of the LOM and within 4.4 miles each side of the Bradford VORTAC 139° radial extending from the VORTAC to 10 miles southeast of the VORTAC and within 4.4 miles each side of the Bradford VORTAC 316° radial extending from the VORTAC to 16.1 miles northwest of the VORTAC and that airspace within a 6-mile radius of the HIVIT Waypoint serving the University of Pittsburgh.

* * * * *

Issued in College Park, Georgia, on February 7, 2008.

Barry A. Knight,

Acting Manager, System Support Group, Eastern Service Center.

[FR Doc. 08–726 Filed 2–20–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–0130; Airspace Docket No. 08–AEA–11]

Modification of Class E Airspace; Wilkes-Barre, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule, request for comments.

SUMMARY: This action modifies Class E Airspace at Wilkes-Barre, PA. Additional airspace is required to support new Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedures (SIAPs) that have been developed for the Community Medical Center and the Fire Station Helipad at Mercy Hospital. This action enhances the safety and management of Instrument Flight Rule (IFR) operations in the area by providing the required controlled airspace to support these approaches in the Wilkes-Barre area. This action also imparts a technical amendment to the legal description of the airspace by restoring a previously omitted description and makes a name change to the Point in Space SIAP for the Wyoming Valley Medical Center.

DATES: Effective 0901 UTC, June 5, 2008. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments. Comments for inclusion in the Rules Docket must be received on or before April 7, 2008.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2008–0130; Airspace Docket No. 08–AEA–11, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.*

You may review the public docket containing the rule, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

FOR FURTHER INFORMATION CONTACT: Daryl Daniels, Airspace Specialist, System Support Group, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; Telephone (404) 305–5581, Fax 404–305–5572.

SUPPLEMENTARY INFORMATION:

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comments, and, therefore, issues it as a direct final rule. The FAA has determined that this rule only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Unless a written adverse or negative comment or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the effective date. If the FAA receives, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a direct final rule, and was not preceded by a notice of proposed rulemaking, interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. The direct final rule is used in this case to facilitate the timing of the charting schedule and enhance the operation at the airport, while still allowing and requesting public comment on this rulemaking action. An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov.* Communications should identify both docket numbers and be submitted in triplicate to the address specified under the caption **ADDRESSES** above or through the website. All communications received on or before the closing date for comments will be considered, and this

rule may be amended or withdrawn in light of the comments received. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Federal Register's Web page at *http://www.gpoacess.gov/fr/index.html*.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. Those wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2008–0130; Airspace Docket No. 08–AEA–11." The postcard will be date stamped and returned to the commenter.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 modifies Class E airspace at Wilkes-Barre, PA, providing the controlled airspace required to support new Standard Instrument Approach Procedures (SIAPs) that were developed for both the Community Medical Center and the Fire Station Helipad at Mercy Hospital. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is required to encompass all SIAPs to the extent practical. The current E5 airspace in the area is insufficient for these approaches, so additional controlled airspace must be developed. The FAA is amending Title 14, Code of Federal Regulations (14 CFR) part 71 to modify Class E5 airspace at Wilkes-Barre by adding a 6-mile radius area around each of the Point in Space Waypoints associated with the Missed Approach Point of the Instrument Approach Procedures at the two different locations.

Additionally, on November 23, 2006, the FAA published in the **Federal Register** (71 FR 60814) an amendment to Class E5 airspace at Wilkes-Barre adding airspace that was required to support Special Instrument Approach Procedures that were developed for the Wyoming Valley Medical Center. In that publication, the legal description of the new airspace should have been added to the existing airspace as published in FAA Order 7400.9P dated September 01, 2006. However, only the text of the newly designated E5 airspace was included and the description of the older existing airspace was omitted. The original airspace was never revoked, just omitted in the documentation, thus this technical amendment restores that description. The Point in Space associated with the Wyoming Valley Medical Center will also be replaced with its appropriate name, ZIGAL Waypoint. Designations for Class E airspace extending upward from 700 feet or more above the surface of the Earth are published in FAA Order 7400.9R, signed August 15, 2007 effective September 15, 2007, which is incorporated by reference in 14 CFR part 71.1. The Class E designations listed in this document will be published subsequently in the Order.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies controlled airspace at Wilkes-Barre, PA.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

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

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

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

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

§71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9R, Airspace Designations and Reporting Points, signed August 15, 2007, effective September 15, 2007, is amended as follows.

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

AEA PA E5 Wilkes-Barre, PA [Revised]

Wilkes-Barre/Scranton International Airport
(Lat. 41°20′19″ N., long 75°43′24″ W.)
BARTY LOM
(Lat. 41°16′37″ N., long 75°46′32″ W.)
Wilkes-Barre/Scranton International ILS Localizer Northeast Course
(Lat. 41°19′54″ N., long 75°43′49″ W.)
Wyoming Valley Medical Center
(Lat. 41°15′29″ N., long 75°48′32″ W.)
ZIGAL Waypoint
(Lat. 41°16′08″ N., long 75°48′36″ W.)
Community Medical Center, Scranton, PA
(Lat. 41°24′00″ N., long 75°38′47″ W.)
ZESMA Waypoint
(Lat. 41°24′00″ N., long 75°39′39″ W.)
Fire Station Helipad at Mercy Hospital
(Lat. 41°14′08″ N., long 75°56′03″ W.)
ZIDKA Waypoint
(Lat. 41°14′14″ N., long 75°55′12″ W.)

That airspace extending upward from 700 feet above the surface of the Earth within a 6.7-mile radius of Wilkes-Barre/Scranton International Airport and within 3.1 miles each side of the Wilkes-Barre/Scranton International Airport Localizer southwest course extending from the BARTY LOM to 10 miles southwest of the LOM and within 4.4 miles each side of the Wilkes-Barre/Scranton

International Airport localizer to 11.8 miles northeast of the Localizer; and including that airspace within a 6-mile radius of each of the Point in Space Waypoints ZIGAL, ZESMA, and ZIDKA serving the Wyoming Medical Center, the Community Medical Center, and the Fire Station Helipad at Mercy Hospital, respectively.

* * * * *

Issued in College Park, Georgia, on February 7, 2008.

Barry A. Knight,

Acting Manager, System Support Group, Eastern Service Center.

[FR Doc. 08–727 Filed 2–20–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–0065; Airspace Docket No. 08–ANE–96]

Establishment of Class E Airspace; Carrabassett, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule, request for comments.

SUMMARY: This action establishes Class E Airspace at Carrabassett, ME to support a new Area Navigation (RNAV) Global Positioning System (GPS) Special Instrument Approach Procedure (IAP) that has been developed for medical flight operations into the Sugarloaf Regional Airport. This action enhances the safety and management of Instrument Flight Rule (IFR) operations by providing that required controlled airspace to protect for this approach around Carrabassett, ME.

DATES: Effective 0901 UTC, June 5, 2006. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments. Comments for inclusion in the Rules Docket must be received on or before April 7, 2008.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2008–0065; Airspace Docket No. 08–ANE–96, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.*

You may review the public docket containing the rule, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

FOR FURTHER INFORMATION CONTACT: Melinda Giddens, System Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5610.

SUPPLEMENTARY INFORMATION:

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comments, and, therefore, issues it as a direct final rule. The FAA has determined that this rule only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Unless a written adverse or negative comment or a written notice of intent to submit an adverse comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the effective date. If the FAA receives, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a direct final rule, and was not preceded by a notice of proposed rulemaking, interested persons are invited to comment on this rule by submitting such written data, view, or arguments as they may desire. An electronic copy of this document may be downloaded from and comments may be submitted and reviewed at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Federal Register's Web page at *http://www.gpoaccess.gov/fr/index.html.* Communications should identify both docket numbers and be submitted in triplicate to the address specified under the caption **ADDRESSES** above or through the website. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. Those wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2008–0065; Airspace Docket No. 08–ANE–96." The postcard will be date stamped and returned to the commenter.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E airspace at Carrabassett, ME providing the controlled airspace required to support the new Copter Area Navigation (RNAV) Global Positioning System (GPS) 272 Point in Space (PinS) approach developed for the Sugarloaf Regional Airport. Controlled airspace, known as Class E5 airspace, extending upward from 700 feet Above Ground Level (AGL) is required for Instrument Flight Rules (IFR) operations and to encompass all Instrument Approach Procedures (IAPs) to the extent practical, therefore, the FAA is amending Title 14, Code of Federal Regulations (14 CFR) part 71 to establish a 6-mile radius Class E5 airspace at Carrabassett, ME. Designations for Class E airspace areas extending upward from 700 feet or more above the surface of the Earth are published in FAA Order 7400.9R, signed August 15, 2007 effective September 15, 2007, which is incorporated by reference in 14 CFR part 71.1. The Class E designations listed in this document will be published subsequently in the Order.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace near the Sugarloaf Regional Airport in Carrabassett, ME.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

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

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

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

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

§71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9R, Airspace Designations and Reporting Points, signed August 15, 2007, effective September 15, 2007, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ANE ME E5 Carrabassett, ME [New]

Sugarloaf Regional Airport
(Lat. 45°05′10″ N., long. 70°12′58″ W.)
Point in Space Coordinates
(Lat. 45°06′26″ N., long. 70°12′30″ W.)

That airspace extending upward from 700 feet above the surface of the Earth within a 6-mile radius of the Point in Space Coordinates (Lat. 45°06′26″ N., long. 70°12′30″ W.) serving the Sugarloaf Regional Airport.

* * * * *

Issued in College Park, Georgia, on January 31, 2008.

Barry A. Knight,

Acting Manager, System Support Group, Eastern Service Center.

[FR Doc. 08–729 Filed 2–20–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR PART 71

[Docket No. FAA–2008–0066; Airspace Docket No. 08–ANE–97]

Establishment of Class E Airspace; Dover-Foxcroft, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule, request for comments.

SUMMARY: This action establishes Class E Airspace at Dover-Foxcroft, ME to support a new Area Navigation (RNAV) Global Positioning System (GPS) Special Instrument Approach Procedure (IAP) that has been developed for medical flight operations into the Mayo Regional Hospital. This action enhances the safety and management of Instrument Flight Rule (IFR) operations by providing that required controlled airspace to protect for this approach around Dover-Foxcroft, ME.

DATES: Effective 0901 UTC, June 5, 2008. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments. Comments for inclusion in the Rules Docket must be received on or before April 7, 2008.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; Telephone 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2008–0066; Airspace Docket No. 08–ANE–97, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.*

You may review the public docket containing the rule, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

FOR FURTHER INFORMATION CONTACT: Melinda Giddens, System Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404)305–5610.

SUPPLEMENTARY INFORMATION:

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comments, and, therefore, issues it as a direct final rule. The FAA has determined that this rule only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Unless a written adverse nor negative comment or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will

publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the effective date. If the FAA receives, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final will be published in the **Federal Register**, and a notice of proposed rulemaking my be published with a new comment period.

Comments Invited

Although this action is in the form of a direct final rule, and was not preceded by a notice of proposed rulemaking, interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. An electronic copy of this document may be downloaded from and comments may be submitted and reviewed at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web site page at *http://www.faa.gov*, or the Federal Register's Web page at *http://www.gpoaccess.gov/fr/index.html*. Communications should identify both docket numbers and be submitted in triplicate to the address specified under the caption **ADDRESSES** above or through the Web site. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. Those wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2008–0066; Airspace Docket No. 08–ANE–97." The postcard will be date stamped and returned to the commenter.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E airspace at Dover-Foxcroft, ME, providing the controlled airspace required to support the new Copter Area Navigation (RNAV) Global Positioning System (GPS) 120 Point in Space (PinS) approach developed for the Mayo Regional Hospital. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is required for Instrument Flight Rules (IFR) operations and to encompass all Instrument Approach Procedures (IAPs) to the extent practical, therefore, the FAA is amending Title 14, Code of Federal Regulations (14 CFR) part 71 to establish a 6-mile radius Class E5 airspace at Dover-Foxcroft, ME. Designations for Class E airspace areas extending upward from 700 feet or more above the surface of the Earth are published in FAA Order 7400.9R, signed August 15, 2007, effective September 15, 2007, which is incorporated by reference in 14 CFR part 71.1. The Class E designations listed in this document will be published subsequently in the Order.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace near the Mayo Regional Hospital in Dover-Foxcroft, ME.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9R, Airspace Designations and Reporting Points, signed August 15, 2007, effective September 15, 2007, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ANE ME E5 Dover-Foxcroft, ME [New]

Mayo Regional Hospital
(Lat. 45°11′19″ N., long. 69°14′12″ W.)
Point in Space Coordinates
(Lat. 45°11′31″ N., long. 69°15′24″ W.)

That airspace extending upward from 700 feet above the surface of the Earth within a 6-mile radius of the Point in Space Coordinates (lat. 45°11′31″ N., long. 69°15′24″ W.) serving the Mayo Regional Hospital.

* * * * *

Issued in College Park, Georgia, on January 31, 2008.

Barry A. Knight,

Acting Manager, System Support Group, Eastern Service Center.

[FR Doc. 08–730 Filed 2–20–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–0062; Airspace Docket No. 08–ANE–93]

Establishment of Class E Airspace; Stonington, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule, request for comments.

SUMMARY: This action establishes Class E Airspace at Stonington, ME to support a new Area Navigation (RNAV) Global Positioning System (GPS) Special Instrument Approach Procedure (IAP) that has been developed for medical flight operations into Stonington Municipal Airport. This action enhances the safety and management of Instrument Flight Rule (IFR) operations by providing that required controlled airspace to support his approach around Stonington, ME.

DATES: Effective 0901 UTC, June 5, 2008. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments. Comments for inclusion in the Rules Docket must be received on or before April 7, 2008.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2008–0062; Airspace Docket No. 08–ANE–93, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov*.

You may review the public docket containing the rule, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

FOR FURTHER INFORMATION CONTACT: Melinda Giddens, System Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5610.

SUPPLEMENTARY INFORMATION:

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comments, and, therefore, issues it as a direct final rule. The FAA has determined that this rule only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Unless a written adverse or negative comment or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the effective date. If the FAA receives, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a direct final rule, and was not preceded by a notice of proposed rulemaking, interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. An electronic copy of this document may be downloaded from and comments may be submitted and reviewed at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov*. or the Federal Register's Web page at *http://www.gpoaccess.gov/fr/index.html*. Communications should identify both docket numbers and be submitted in triplicate to the address specified under the caption **ADDRESSES** above or through the website. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. Those wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2008–0062; Airspace Docket No. 08–ANE–93." The postcard will be date stamped and returned to the commenter.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E airspace at Stonington, ME providing the controlled airspace required to support the new Copter Area Navigation RNAV Global Positioning System (GPS) 070 Point in Space (PinS) approach developed for Stonington Municipal Airport. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is required for Instrument flight Rules (IFR) operations and to encompass all Instrument Approach Procedures (iaps) to the extent practical, therefore, the FAA is amending Title 14, Code of Federal Regulations (14 CFR) part 71 to establish a 6-mile radius Class E5 airspace at Stonington, ME Designations for Class E airspace areas extendding upward from 700 feet or more above the surface of the Earth are published in FAA Order 7400.9R, signed August 15, 2007 effective September 15, 2007, which is incorporated by reference in 14 CFR part 71.1. The Class E designations listed in this document will be published subsequently in the Order.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a "significant regulatory action" under

Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979; and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is cetified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace near Stonington Municipal Airport in Stonington, ME.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 25 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9R, Airspace Designations and Reporting Points, signed August 15, 2007, effective September 15, 2007, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ANE ME E5 Stonington, ME [New]

Stonington Municipal Airport
(Lat. 44°10′24″ N., long. 68°40′49″ W.)
Point in Space Coordinates
(Lat. 44°09′58″ N., long. 68°41′37″ W.)

That airspace extending upward from 700 feet above the surface of the Earth within a 6-mile radius of the Point in Space Coordinates (lat. 44°09′58″ N., long. 68°41′37″ W.) serving Stonington Municipal Airport.

* * * * *

Issued in College Park, Georgia, on January 31, 2008.

Barry A. Knight,

Acting Manager, System Support Group, Eastern Service Center.

[FR Doc. 08–731 Filed 2–20–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–0059; Airspace Docket No. 08–ANE–90]

Establishment of Class E Airspace; Fort Kent, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule, request for comments.

SUMMARY: This action establishes Class E Airspace at Fort Kent, ME to support a new Area Navigation (RNAV) Global Positioning System (GPS) Special Instrument Approach Procedure (IAP) that has been developed for medical flight operations into the Northern Maine Medical Center. This action enhances the safety and management of Instrument Flight Rule (IFR) operations by providing that required controlled airspace to protect for this approach around Fort Kent, ME.

DATES: Effective 0901 UTC, June 5, 2008. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments. Comments for inclusion in the Rules Docket must be received on or before April 7, 2008.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building, Ground Floor, W12–140, 1200 New Jersey, SE., Washington, DC 20590–0001; Telephone 1–800–647–5527; Fax 202–493–2251. You must identify the Docket No. FAA–2008–0059; Airspace Docket No. 08–ANE–90, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.*

You may review the public docket containing the rule, any comment received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

FOR FURTHER INFORMATION CONTACT: Melinda Giddens, System Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404)–305–5610.

SUPPLEMENTARY INFORMATION:

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comments, and therefore, issues it as a direct final rule. The FAA has determined that this rule only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Unless a written adverse or negative comment or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specific above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the effective date. If the FAA receives, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comment Invited

Although this action is in the form of a direct final rule, and was not preceded by a notice of proposed rulemaking, interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. An electronic copy of this document may be downloaded from and comments may be submitted and reviewed at *http://*

www.regulations.gov. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Federal Register's Web page at *http://www.gpoaccess.gov/fr/index.html.* Communications should identify both docket numbers and be submitted in triplicate to the address specified under the caption **ADDRESSES** above or through the Web site. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. Those wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2008–0059; Airspace Docket No. 08–ANE–90." The postcard will be date stamped and returned to the commenter.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E airspace at Fort Kent, ME providing the controlled airspace required to support the new Copter Area Navigation RNAV Global Positioning System (GPS) 011 Point in Space (PinS) approach developed for the Northern Maine Medical Center. In today's environment where speed of treatment for medical injuries is imperative, landing sites have been developed for helicopter medical Lifeguard flights or Lifeflights at the local hospitals. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is required for Instrument Flight Rules (IFR) operations and to encompass all Instrument Approach Procedures (IAPs) to the extent practical, therefore, the FAA is amending Title 14, Code of Federal Regulations (14 CFR) part 71 to establish a 6-mile radius Class E5 airspace at Fort Kent, ME. Designations for Class E airspace areas extending upward from 700 feet or more above the surface of the Earth are published in FAA Order 7400.9R, signed August 15, 2007 effective September 15, 2007, which is incorporated by reference in 14 CFR part 71.1. The Class E designations listed in this document will be published subsequently in the Order.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace near the Northern Maine Medical Center in Fort Kent, ME.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9R, Airspace Designations and Reporting Points, signed August 15, 2007, effective September 15, 2007, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ANNE ME E5 Fort Kent, ME [New]

Northern Maine Medical Center
(Lat. 47°15′54″ N., long. 68°35′36″ W.)
Point in Space Coordinates
(Lat. 47°15′00″ N., long. 68°34′43″ W.)

That airspace extending upward from 700 feet above the surface of the Earth within a 6-mile radius of the Point in Space Coordinates (lat. 47°15′00″ N., long. 68°34′43″ W.) serving the Northern Maine Medical Center excluding that airspace outside of the United States.

* * * * *

Issued in College Park, Georgia, on January 24, 2008.

Mark D. Ward,

Manager, System Support Group, Eastern Service Center.

[FR Doc. 08–734 Filed 2–20–08; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–025; Airspace Docket No. 08–AGL–3]

Establishment of Class E Airspace; La Pointe, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule request for comments.

SUMMARY: This action establishes Class E airspace at La Pointe, WI. Additional

controlled airspace is necessary to accommodate aircraft using new Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedures (SIAPs). The FAA proposes this action to enhance the safety and management of Instrument Flight Rules (IFR) aircraft operations at La Pointe, WI, Madeline Island Airport.

DATES: *Effective Dates:* 0901 UTC April 10, 2008. Comments for inclusion in the rules Docket must be received by April 7, 2008. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue, SE. West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2008–025/Airspace Docket No. 08–AGL–3, at the beginning of your comments. You may also submit comments through the Internet at *http://regulations.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Joe Yadouga, Central Service Center, System Support Group, Federal Aviation Administration, Southwest Region, Ft. Worth, TX 76193–0530; telephone (817) 222–5597.

SUPPLEMENTARY INFORMATION:

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comments, and, therefore, issues it as a direct final rule. Unless a written adverse or negative comment or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the effective date of the rule. If the FAA receives, within the comment period, an adverse or negative comment, or written comment notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a direct final rule, and was not preceded by a notice of proposed rulemaking, interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the direct final rule. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the direct final rule. Commenters wishing the FAA to acknowledge receipt of their comments on this rule must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2008–0025, Airspace Docket No. 08–AGL–3." The postcard will be date/time stamped and returned to the commenter. Communications should identify both docket numbers and be submitted in triplicate to the address specified under the caption **ADDRESSES** above or through the Web site. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E airspace at La Pointe, WI providing the airspace required to support the new RNAV (GPS) RWY 4/22 approach developed for IFR landings at Madeline Island Airport. Controlled airspace extending upward from 700 feet above the surface is required to encompass all SIAPs and for the safety of IFR operations at Madeline Island Airport. Designations for Class E airspace areas extending upward from 700 feet above the surface of the earth are published in the FAA Order 7400.9R, signed August 15, 2007 and effective September 15, 2007, which is incorporated by reference in 14 CFR Part 71.1. Class E designations listed in this document will be published subsequently in the Order.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government. Therefore, it is determined that this final rule does not have federalism implication under Executive Order 13132.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

This rulemaking is promulgated under the authority described in subtitle VII, Part A, subpart I, section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes Class E airspace at La Pointe, WI.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

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

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

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

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

§ 71.1 Amended

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9R, Airspace Designation and Reporting Points, signed August 15, 2007, and effective September 15, 2007, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet Above the Surface of the Earth.

* * * * *

AGL WI E5 La Pointe, WI [New]

Madeline Island Airport
(Lat. 46°47′19″ N., long. 90°45′31″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Madeline Island Airport.

* * * * *

Issued in Fort Worth, TX, on February 8, 2008.

Donald R. Smith,

Manager, System Support Group, ATO Central Service Area.

[FR Doc. 08–735 Filed 2–20–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–027; Airspace Docket No. 08–ASW–3]

Establishment of Class E5 Airspace; Eagle Pass, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments; correction.

SUMMARY: This action corrects a direct final rule published in the **Federal Register** January 22, 2008 (73 FR 3625), Airspace Docket No. 08–ASW–3, FAA Docket No. FAA–2008–027. In that rule, an error was made in the geographic coordinates of the legal description for Maverick County Memorial International. This action also deletes that portion of the legal description referencing Notice to Airmen effective date and times.

DATES: *Effective Dates:* 0901 UTC April 10, 2008. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Joe Yadouga, Central Service Center, System Support Group, Federal Aviation Administration, Southwest Region, Ft. Worth, Texas 76193–0530; telephone (817) 222–5597.

SUPPLEMENTARY INFORMATION:

History

On January 22, 2008, a direct final rule for Airspace Docket No. 08–ASW–3, FAA Docket No. FAA–2008–027, was published in the **Federal Register** (73 FR 3625), establishing Class E airspace at Maverick County Memorial International Airport, Eagle Pass, TX. The geographic coordinates of the legal description for the airport were incorrect. The coordinates should read lat. 28°51′26″ N., long. 100°30′48″ W. This action corrects that error, and also removes the sentences referencing Notice to Airmen effective date and times.

Correction to Direct Final Rule

■ Accordingly, pursuant to the authority delegated to me, the legal description, as published in the **Federal Register** January 22, 2008 (73 FR 3625), Airspace Docket No. 08–ASW–3, FAA Docket No. FAA–2008–027, and incorporated by reference in 14 CFR 71.1, is corrected as follows:

§71.1 Amended

■ On page 3626, column 3, line 25, correct the geographic coordinates for Maverick County Memorial International Airport to read:

ASW TX CLASS E5 Eagle Pass, TX [Corrected]

Maverick County Memorial International Airport
(Lat. 28°51′26″ N., long. 100°30′48″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Maverick County Memorial International Airport to exclude the international boundaries of Mexican airspace.

Issued in Fort Worth, TX, on February 8, 2008.

Donald R. Smith,

Manager, System Support Group, ATO Central Service Center.

[FR Doc. 08–733 Filed 2–20–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–22491; Airspace Docket No. 05–AEA–019]

Amendment of Class E Airspace; Williamsport, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the geographic coordinates of a final rule published in the **Federal Register** October 30, 2007, that established additional controlled airspace at Williamsport-Lycoming County Airport (72 FR 61297), Airspace Docket No. FAA–2005–22491.

DATES: Effective 0901 UTC, February 21, 2008.

FOR FURTHER INFORMATION CONTACT: Daryl Daniels, Airspace Specialist, System Support, AJ02–E2B.12, FAA Eastern Service Center, 1701 Columbia Ave., College Park, GA 30337; telephone (404) 305–5581; fax (404) 305–5572.

SUPPLEMENTARY INFORMATION:

History

A final rule published in the **Federal Register** October 30, 2007, established additional controlled airspace at Williamsport-Lycoming County Airport (72 FR 61297). In that rule, additional airspace was established to serve the Williamsport Hospital. After publication, an error was found in the geographic coordinates of the Williamsport-Lycoming County Airport, Williamsport, PA. This action corrects that error.

Correction to Final Rule

■ Accordingly, pursuant to the authority delegated to me, the geographic coordinates for the Williamsport-Lycoming County Airport, PA, as published in the **Federal Register** on October 30, 2007 (72 FR 61297), **Federal Register** Docket No. FAA–2005–22491 are corrected as follows:

§71.1 [Amended]

* * * * *

AEA PA E5 Williamsport, PA [Corrected]

Williamsport-Lycoming County Airport
(Lat. 41°14′31″ N., long. 76°55′16″ W.)
Picture Rocks NDB
(Lat. 41°16′36″ N., long, 76°42′37″ W.)
Williamsport Hospital Point In Space Coordinates
(Lat. 41°14′43″ N., long. 77°00′04″ W.)

That airspace extending upward from 700 feet above the surface within a 17.9-mile

radius of Williamsport-Lycoming County Airport extending clockwise from a 025° bearing to a 067° bearing from the airport and within a 12.6-mile radius of Williamsport-Lycoming County Airport extending clockwise from a 067° bearing to a 099° bearing from the airport and within a 6.7-mile radius of Williamsport-Lycoming County Airport extending clockwise from a 099° bearing to a 270° bearing from the airport and within a 17.9-mile radius of Williamsport-Lycoming County Airport extending clockwise from a 270° bearing to a 312° bearing from the airport and within a 19.6-mile radius of Williamsport-Lycoming County Airport extending clockwise from a 312° bearing to a 350° bearing from the airport and within a 6.7-mile radius of Williamsport-Lycoming County Airport extending clockwise from a 350° bearing to a 025° bearing from the airport and within 4.4 miles each side of the Williamsport-Lycoming County Airport ILS localizer east course extending from the Picture Rocks NDB to 11.3 miles east of the NDB; and that airspace within a 6-mile radius of the point in space (Lat. 41°14′43″ N., long. 77°00′04″ W.) serving the Williamsport Hospital.

* * * * *

Issued in College Park, GA, on February 7, 2008.

Barry A. Knight,

Acting Manager, System Support Group, Eastern Service Center.

[FR Doc. 08–728 Filed 2–20–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Altrenogest

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Intervet, Inc. The supplemental NADA provides for revised food safety labeling for altrenogest oral solution used in horses.

DATES: This rule is effective February 21, 2008.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8337, e-mail: *melanie.berson@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Intervet, Inc., P.O. Box 318, 29160 Intervet Lane, Millsboro, DE 19966, filed a supplement to NADA 131–310 for REGU-MATE (altrenogest), an oral solution administered to mares for suppression of estrus. The supplemental application provides for a revised warning statement on product labeling. The supplemental NADA is approved as of January 18, 2008, and 21 CFR 520.48 is amended to reflect the approval.

Approval of this supplemental NADA did not require review of additional safety or effectiveness data or information. Therefore, a freedom of information summary is not required.

The agency has determined under 21 CFR 25.33(a)(1) 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.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 520

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 2. In § 520.48, revise the section heading and paragraph (d)(1)(iii) to read as follows:

§ 520.48 Altrenogest.

* * * * *

(d) * * *

(1) * * *

(iii) *Limitations.* Do not use in horses intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

* * * * *

Dated: February 11, 2008.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. E8–3265 Filed 2–20–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Ivermectin Liquid

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental abbreviated new animal drug application (ANADA) filed by IVX Animal Health, Inc. The supplemental ANADA provides revised labeling for ivermectin oral liquid used in horses.

DATES: This rule is effective February 21, 2008.

FOR FURTHER INFORMATION CONTACT: John K. Harshman, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8197, e-mail: *john.harshman@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: IVX Animal Health, Inc., 3915 South 48th Street Ter., St. Joseph, MO 64503, filed a supplement to ANADA 200–202 for PHOENECTIN (ivermectin) Liquid for Horses. The supplemental application provides for the addition of indications for use and minor revisions to product labeling that conform to the pioneer product labeling. The supplemental ANADA is approved as of January 24, 2008, and 21 CFR 520.1195 is amended to reflect the approval.

In addition, the regulation is being amended to add the drug labeler code for another approved generic product (69 FR 24958, May 5, 2004), which was removed in error in the **Federal Register** of September 24, 2004 (69 FR 57173). This action is being taken to improve the accuracy of the regulations.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) 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.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 520

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 2. In § 520.1195, revise paragraphs (b)(1) and (b)(2) to read as follows:

§ 520.1195 Ivermectin liquid.

* * * * *

(b) * * *

(1) Nos. 050604, 054925, and 059130 for use of product described in paragraph (a)(1) of this section as in paragraphs (e)(1)(i), (e)(1)(ii)(A), and (e)(1)(iii) of this section.

(2) Nos. 058005 and 058829 for use of product described in paragraph (a)(1) of this section as in paragraphs (e)(1)(i), (e)(1)(ii)(B), and (e)(1)(iii) of this section.

* * * * *

Dated: February 11, 2008.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. E8–3266 Filed 2–20–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 903

[Docket No. USAF–2007–0001]

RIN 0701–AA72

Air Force Academy Preparatory School

AGENCY: DoD, USAF.

ACTION: Final rule.

SUMMARY: This final rule tells how to apply for the Air Force Academy Preparatory School. It also explains the procedures for selection, disenrollment, and assignment. This rule has been updated to identify USAFA's revised mission statement, new selection criteria and updates of associated Air Force Instructions.

DATES: *Effective Date:* This rule is effective March 24, 2008.

FOR FURTHER INFORMATION CONTACT: Mr. Scotty Ashley at (703) 695–3594, *scotty.Ashley@pentagon.af.mil.*

SUPPLEMENTARY INFORMATION: The proposed rule was published in the **Federal Register** on July 12, 2007 (72 FR 10436–10438). No comments were received.

Executive Order 12866, "Regulatory Planning and Review"

It has been determined that 32 CFR part 903 is not a significant regulatory action. This rule does not:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of the recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

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

It has been certified the 32 CFR part 903 does not contain a Federal Mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, "Regulatory Flexibility Act" (5 U.S.C. 601)

It has been determined that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Public Law 95–511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been certified that 32 CFR part 903 does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Federalism (Executive Order 13132)

It has been certified that 32 CFR part 903 does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

(2) The relationship between the National Government and the States; or

(3) The distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 903

Military academy; Military personnel.

■ Therefore, for the reasons set forth in the preamble, 32 CFR part 903 is revised to read as follows:

PART 903—AIR FORCE ACADEMY PREPARATORY SCHOOL

Sec.

Authority: 5 U.S.C. 301, 10 U.S.C. 8013, and 10 U.S.C. 9331 unless otherwise noted).

Note: This part is derived from AFI 36–2021, September 12, 2006. Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 903.1 Mission and responsibilities.

(a) Mission. To motivate, prepare, and evaluate selected candidates in an educational, military, moral, and physical environment, to perform successfully and enhance diversity at USAFA.

(b) Responsibilities:

(1) Superintendent, USAFA (HQ USAFA/CC). Ensures adequate oversight of HQ USAFA/PL activities, administration, and resources. Means of oversight include but are not limited to:

(i) United States Air Force Academy Instruction (USAFAI) 36–3502, USAFA Assessment Board.

(ii) The Preparatory School Advisory Committee, as established in USAFAI 36–2013, Superintendent's Preparatory School Advisory Committee of the USAF Academy Preparatory School.

(iii) Annual Assessment, as established in Department of Defense

(DoD) Directive 1322.22, Service Academies.

(iv) Audits, Eagle Looks, and Unit Compliance Inspections.

(v) Special reviews and investigations as directed by HQ USAF.

(vi) USAFA Board of Visitors (BoV).

(2) HQ USAFA/PL Commander:

(i) Ensures the education and training programs satisfy the school's mission.

(ii) Informs HQ USAFA/RR of candidates' names, including essential categories, when each class enters.

(iii) Administers the disenrollment process. Notifies the Headquarters USAFA Superintendent (HQ USAFA/CC), and HQ USAFA/RR of all disenrollments.

(iv) Responsible, along with ARPC, for administering the oath of enlistment on the date of inprocessing. The effective date of enlistment is the date the applicant took the oath.

(3) Air Reserve Personnel Center (ARPC):

(i) Receives DD Form 1966, Record of Military Processing–Armed Forces of the United States, from select candidates upon inprocessing.

(ii) Reviews the DD Form 1966 for completion/acceptance.

(iii) Completes the DD Form 4, Enlistment/Reenlistment Document Armed Forces of the United States, if DD Form 1966 is in order.

(iv) Responsible, along with USAFA/PL, for administering the oath of enlistment on the date of inprocessing. The effective date of enlistment is the date the applicant took the oath.

(v) Publishes reserve orders placing applicant on active duty for the purpose of attending Preparatory school. Preparatory school determines the date of call to active duty (usually date administered the oath). ARPC provides copies of orders to MPF on the date of inprocessing.

(4) 10th Mission Support Squadron Military Personnel (10 MSS/DPM):

(i) Ensures Regular and Reserve Air Force personnel reassigned to the HQ USAFA/PL enter with the highest grade they had achieved as of their date of enrollment and retain their date of rank or effective date.

(ii) Maintains records on Cadet Candidates.

(iii) Processes separation orders for non-prior service members who complete the HQ USAFA/PL and accept an appointment to a U.S. Service Academy.

(iv) Prepares discharge orders for non-prior service members who are disenrolled or do not accept appointment to a U.S. Service Academy.

(v) Issues ID cards.

(5) Headquarters USAFA Admissions (HQ USAFA/RR):

(i) Notifies cadet candidates of their acceptance into HQ USAFA/PL. Includes an accept-or-decline form with acceptance letter and asks cadet candidates to return the form as soon as possible.

(ii) Issues "Invitation to Travel" letters to all accepted cadet candidates (including civilians, reservist and members of other services) inviting them to travel to the HQ USAFA/PL, enlist in the Air Force Reserve (if necessary), and attend the HQ USAFA/PL.

(iii) Sends a notice to non-selected service personnel and their servicing Military Personnel Flight (MPF). *Note:* The Air Force does not typically notify civilian applicants of their non-selection.

(iv) Provides 10 MSS/DPMA with the name, grade, social security number, mailing address, and unit of assignment for reassignment of all applicants on Air Force active duty who are accepted into HQ USAFA/PL.

(v) Sends DODMERB a data file listing all applicants that need a medical examination. DODMERB uses the data file to schedule necessary exams.

(6) Unit commanders of all Regular and Reserve Component Air Force personnel applying to the HQ USAFA/PL:

(i) Review each applicant's completed AF Form 1786, Application for Appointment to the United States Air Force Academy Under Quota Allotted to Enlisted Members of the Regular and Reserve Components of the Air Force, and determine if the applicant meets eligibility requirements.

(ii) Forward an endorsement of all applicants who meet eligibility requirements, together with AF Form 1786, through the MPF to: Headquarters USAFA Admission Selections (HQ USAFA/RRS), 2304 Cadet Drive, USAF Academy CO 80840–5025. The endorsement must include a comprehensive statement of the applicant's character, ability, and motivation to become a career officer. Verify statements in applications regarding service component, length of service, and date of birth from official records.

(iii) Notify HQ USAFA/RR immediately on determining that an applicant is no longer recommended for selection to the HQ USAFA/PL.

(7) Unit commanders of Regular or Reserve members of the Army, Navy, or Marine Corps and unit commanders of Army or Air National Guard members:

(i) Accept letters of application to the HQ USAFA/PL from unit personnel.

(ii) Complete an endorsement for all applicants who meet the eligibility requirements. Include in the endorsement a comprehensive statement of the applicant's character, ability, and motivation to become a career officer. Verify statements in applications regarding service component, length of service, and date of birth from official records. Send the endorsement and letter of application to HQ USAFA/RRS, 2304 Cadet Drive, USAF Academy CO 80840–5025.

(iii) Ensure that each applicant receives a release from active duty to attend the HQ USAFA/PL before sending the endorsement. In order to facilitate the accession of a National Guard (Air or Army) member into USAFA or HQ USAFA/PL, a DD Form 368, Request for Conditional Release, or AF Form 1288, Application for Ready Reserve Assignment, should be accomplished and forwarded to the losing Military Personnel Flight (MPF) service for out-processing. Once the member has enlisted the 10 MSS/DPM will contact the losing MPF. A copy of the DD Form 4 and orders will be provided to the losing ANG MPF by fax. In turn, the losing MPF will project the member's record in MilPDS based on the gaining PAS provided by the 10 MSS/DPM.

(iv) Notify HQ USAFA/RR immediately on determining that an applicant is no longer recommended for selection to the HQ USAFA/PL.

§ 903.2 Eligibility requirements.

(a) For admission to the HQ USAFA/PL, applicants must be:

(1) At least 17 and no more than 22 years old by 1 July of the year of admission.

(2) A citizen or permanent resident of the United States able to obtain citizenship (or Secretary of Defense waiver allowed by 10 U.S.C. 532(f)) by projected commissioning date.

(3) Unmarried and have no dependents.

(4) Of high moral character. Applicants must have no record of Uniform Code of Military Justice convictions or civil offenses beyond minor violations; no history of drug or alcohol abuse; and no prior behaviors, activities, or associations incompatible with USAF standards.

(5) Medically qualified for appointment to the U.S. Air Force Academy (USAFA).

(6) A member of the armed services or eligible to enlist in the U.S. Air Force Reserve.

(b) Normally, applicants must not have previously attended college on a full-time basis or attended a U.S. Service Academy or a U.S. Service Academy Preparatory School. The

Headquarters USAFA Registrar's Office (HQ USAFA/RR) determines an applicant's status in this regard.

(c) Every applicant must be an active candidate in the USAFA admissions program, normally through one of following:

(1) Nominated by a source specified in public law.

(2) Identified by the USAFA as fulfilling institutional needs.

(d) Members of the Air Force Reserve or Air National Guard (ANG) must agree to active duty service if admitted to the HQ USAFA/PL. Admitted ANG personnel first transfer to the Air Force Reserves before leaving their place of residence and being called to active duty.

(e) Regular and reserve members of the Armed Forces and the National Guard must have completed basic training.

(f) Regular members of the Armed Forces must have at least 1 year retainability when they enter the HQ USAFA/PL.

§ 903.3 Selection criteria.

(a) Cadet candidates for the HQ USAFA/PL are selected on the basis of demonstrated character, test scores, medical examination, prior academic record, recommendation of the organization commander (if prior service), and other similar reports or records. USAFA is authorized to make selections IAW SECAF guidance including but not limited to selection from among enlisted personnel and recruited athletes. Each applicant must:

(1) Achieve satisfactory scores on the Scholastic Aptitude Test (SAT) or the American College Testing Program (ACT).

(2) Take and pass a medical evaluation administered through the Department of Defense Medical Evaluation Review Board (DODMERB).

(3) Have an acceptable academic record as determined by HQ USAFA/RR. Each applicant must furnish a certified transcript from each high school or civilian preparatory school attended. Applicants should send transcripts to HQ USAFA/RR, 2304 Cadet Drive, Suite 200, USAF Academy CO 80840–5025.

(4) Take the Candidate Fitness Assessment.

(b) HQ USAFA/RR oversees the holistic review of each viable candidate's record by a panel. This holistic review may include consideration of factors that would enhance diversity at USAFA, such as unique academic abilities, language skills, demonstrated leadership skills, foreign cultural knowledge, athletic prowess, flying aptitude, uncommon life experiences, demonstrated moral or physical courage or other performance-based factors.

(c) HQ USAFA/RR also examines reports and records that indicate an applicant's aptitude, achievement, or ability to graduate from the HQ USAFA/PL in the selection process.

(d) HQ USAFA/RR includes Preparatory School selection guidelines in the "Criteria and Procedures for Air Force Academy Appointment, Class of 20XX" (Contract) and submits for Superintendent approval.

(e) For members of the Armed Forces and the National Guard, HQ USAFA/RR also considers letters of recommendation from applicants' unit commanders.

§ 903.4 Application process and procedures.

(a) Regular and Reserve members of the Air Force must send their applications to: HQ USAFA/RR, 2304 Cadet Dr, Suite 200, USAF Academy CO 80840–5025, no later than 31 January for admission the following summer. Those otherwise nominated to the Air Force Academy must complete all steps of admissions by 15 April.

(b) Regular and Reserve members of the Air Force must complete AF Form 1786 and submit it to their unit commander.

(c) Regular and Reserve members of the Army, Navy, or Marine Corps, as well as members of the National Guard, must submit a letter of application through their unit commander.

(d) Civil Air Patrol (CAP) cadets send their applications to HQ USAFA/RR and must apply to CAP National Headquarters by 31 January for nomination.

(e) HQ USAFA/RR automatically considers civilian candidates for admission who have a nomination to the USAFA, but were not selected.

§ 903.5 Reserve enlistment procedures.

(a) Civilians admitted to the HQ USAFA/PL take the oath of enlistment on the date of their initial in-processing at the HQ USAFA/PL. Their effective date of enlistment is the date they take this oath.

(b) Civilians who enlist for the purpose of attending the HQ USAFA/PL will be awarded the rank of E–1. These cadet candidates are entitled to the monthly student pay at the same rate as USAFA cadets according to United States Code Title 37, Section 203.

§ 903.6 Reassignment of Air Force Members to Become Cadet Candidates at the Preparatory School.

USAFA Preparatory School Enrollment for members selected from operational Air Force:

Selected Regular Air Force members at technical training schools remain there in casual status until the earliest reporting date for the HQ USAFA/PL. Students must not leave their training school without coordinating with HQ USAFA/RR.

§ 903.7 Reassignment of Cadet Candidates who Graduate from the Preparatory School with an Appointment to USAFA.

USAFA Cadet Enrollment for Cadet Candidates who graduate from the Prepatory School with an appointment to the USAFA:

(a) The Air Force releases cadet candidates entering the USAFA from active duty and reassigns them to active duty as Air Force Academy cadets, effective on their date of entry into the USAFA in accordance with one of these authorities:

(1) The Department of Air Force letter entitled Members of the Armed Forces Appointed to a Service Academy, 8 July 1957.

(2) Title 10, United States Code, Sections 516 and 523. Air Force Instruction (AFI) 36–3208, Administrative Separation of Airmen.

(b) The Air Force discharges active Reserve cadet candidates who enlisted for the purpose of attending the HQ USAFA/PL in accordance with AFI 36–3208 and reassigns them to active duty as Air Force Academy cadets, effective on their date of entry into the USAFA.

§ 903.8 Cadet candidate disenrollment.

(a) In accordance with AFI 36–3208, the Commander, HQ USAFA/PL, may disenroll a student who:

(1) Fails to meet and maintain HQ USAFA/PL educational, military, character, or physical fitness standards.

(2) Fails to demonstrate adaptability and suitability for participation in USAFA educational, military, character, or physical training programs.

(3) Displays unsatisfactory conduct.

(4) Fails to meet statutory requirements for admission to the USAFA, for example:

(i) Marriage or acquiring legal dependents.

(ii) Medical disqualification.

(iii) Refusal to serve as a commissioned officer in the U.S. Armed Forces.

(5) Requests disenrollment.

(b) The HQ USAFA/PL commander may also disenroll a student when it is determined that the student's retention

is not in the best interest of the Government.

(c) The military personnel flight (10 MSS/DPM) processes Regular Air Force members for reassignment if:

(1) They are disenrolled from the HQ USAFA/PL.

(2) They fail to obtain or accept an appointment to a U.S. Service Academy.

(d) The Air Force reassigns Air Force Reserve cadet candidates who are disenrolled from the HQ USAFA/PL or who fail to obtain or accept an appointment to an U.S. Service Academy in either of two ways under AFI 36–3208:

(1) Discharges them from the United States Air Force without any further military obligation if they were called to active duty solely to attend the HQ USAFA/PL.

(2) Releases them from active duty and reassigns them to the Air Force Reserve Personnel Center if they were released from Reserve units to attend the HQ USAFA/PL.

(e) The National Guard (Army or Air Force) releases cadet candidates from active duty and reassigns them to their State Adjutant General.

(f) The Air Force reassigns Regular and Reserve personnel from other Services back to their unit of origin to complete any prior service obligation if:

(1) They are disenrolled from the HQ USAFA/PL.

(2) They fail to obtain or accept an appointment to the USAFA.

§ 903.9 Cadet records and reassignment forms.

(a) Headquarters USAFA Cadet Personnel (HQ USAFA/DPY) maintains records of cadet candidates who enter the USAFA until they are commissioned or disenrolled.

(b) 10 MSS/DPM will send records of Regular Air Force personnel who enter one of the other Service Academies to HQ Air Force Personnel Center (HQ AFPC) for processing.

§ 903.10 Information Collections, Records, and Forms or Information Management Tools (IMTS).

(a) Information Collections. No information collections are created by this publication.

(b) Records. Ensure that all records created as a result of processes prescribed in this publication are maintained in accordance with AFMAN 37–123, Management of Records, and disposed of in accordance with the Air Force Records Disposition Schedule (RDS) located at *https://webrims.amc.af.mil.*

(c) Forms or IMTs (Adopted and Prescribed).

(1) Adopted Forms or IMTs: AF IMT 847, Recommendation for Change of Publication. AF Form 1288, Application for Ready Reserve Assignment, AF Form 1786, Application for Appointment to the USAF Academy Under Quota Allotted to Enlisted Members of the Regular and Reserve Components of the Air Force, DD Form 4, Enlistment/Reenlistment Document-Armed Forces of the United States, DD Form 368, Request for Conditional Release, and DD Form 1966, Record of Military Processing-Armed Forces of the United States.

(2) Prescribed Forms or IMTs: No forms or IMTs are prescribed by this publication.

Bao-Anh Trinh,

Air Force Federal Register Liaison Officer.

[FR Doc. E8–2948 Filed 2–20–08; 8:45 am]

BILLING CODE 5001–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2005–ME–0008; A–1–FRL–8526–5]

Approval and Promulgation of Air Quality Implementation Plans; Maine; Open Burning Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maine. This revision limits open burning of construction and demolition debris to on-site burning for the disposal of wood wastes and painted and unpainted wood, and adds restrictions to open burning conducted for training, research, and recreational purposes. The revised rule also defines which open-burning recreational activities do not require a permit, such as residential use of outdoor grills and fireplaces, and recreational campfires while the ground is covered in snow. The revised rule eliminates provisions that allowed permits to be issued for open burning of rubbish where no rubbish collection is available or "reasonably located" and where "there is no other suitable method for disposal." In addition, the revised rule includes a note referencing reasonable precautions required by Maine statute to prevent the introduction of lead into the environment from lead-based paint.

This action will have a beneficial effect on air quality in Maine by reducing emissions of particulate matter, air toxics, and other pollutants, especially from the burning of lead-painted wood, plastics, metals, and other non-wood materials. This action is being taken in accordance with the Clean Air Act.

DATES: This direct final rule will be effective April 21, 2008, unless EPA receives adverse comments by March 24, 2008. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R01–OAR–2005–ME–0008 by one of the following methods:

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

2. *E-mail: arnold.anne@epa.gov.*

3. *Fax:* (617) 918–0047.

4. *Mail:* "Docket Identification Number EPA–R01–OAR–2005–ME–0008," Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (mail code CAQ), Boston, MA 02114–2023.

5. *Hand Delivery or Courier.* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, (CAQ), Boston, MA 02114–2023. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R01–OAR–2005–ME–0008. 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 through *www.regulations.gov*, or e-mail, information that you consider to be CBI or otherwise protected. 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 electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

In addition, copies of the state submittal and EPA's technical support document are also available for public inspection during normal business hours, by appointment at the Bureau of Air Quality Control, Department of Environmental Protection, First Floor of the Tyson Building, Augusta Mental Health Institute Complex, Augusta, ME 04333–0017.

FOR FURTHER INFORMATION CONTACT: Alison C. Simcox, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114–2023, telephone number (617) 918–1684, fax number (617) 918–0684, e-mail *simcox.alison@epa.gov.*

SUPPLEMENTARY INFORMATION: Organization of this document. The following outline is provided to aid in locating information in this preamble.

I. Background and Purpose

On April 27, 2005, the State of Maine submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of amendments to Maine's Chapter 102 Open Burning Rule, which address all concerns that EPA had expressed to the Maine Department of Environmental Protection (ME DEP) about previous amendments and proposed amendments to the rule.

Maine's Chapter 102 Open Burning Rule was first adopted in January 1972 to minimize environmental impacts from open burning in Maine. EPA New England approved this rule into the Maine SIP on May 31, 1972 (37 FR 10842). Following adoption by ME DEP of an amended version of the rule in December 2002, EPA was especially concerned about language in the rule that could be interpreted to allow outdoor burning of any type construction and demolition debris, including plastics, rubber, styrofoam, metals, food wastes, or chemicals.

In 2003, the state legislature amended 12 MRSA section 9324 to change language in the statute from "out-of-door burning of wood wastes * * * and construction and demolition debris" to "out-of-door burning of wood wastes * * * from construction and demolition debris," thus addressing EPA's concern about burning of inappropriate, non-wood materials.

Subsequently, ME DEP amended Chapter 102 to be consistent with the revised legislation and with other EPA comments, including adding a reference to reasonable precautions required by 38 MRSA section 1296 to prevent the introduction of lead into the environment from lead-based paint. ME DEP adopted these amendments in March 2005, and submitted them to EPA for inclusion in the Maine SIP on April 27, 2005.

II. Summary of SIP Revision

The revised Chapter 102 prohibits "open burning" in all areas of the State, except for the types of open burning expressly described within the chapter. The revised Chapter 102 uses the terms "outdoor burning" and "out-of-door burning" synonymously with the term "open burning," which ME DEP defined in Chapter 100. ME DEP confirmed with EPA that the state interprets these terms to be synonymous, and EPA is basing its approval of this regulation on that interpretation.

The revised Chapter 102 rule has a number of changes that make it more stringent than the original 1972 rule (37 FR 10842). The most significant of these changes include added restrictions to open burning of construction and demolition debris, and to open burning for training, research, and recreational purposes. Previously, open burning was permitted for "all debris" from demolition of any building and for certain types of land clearing (e.g., building highways, power lines, commercial, and industrial buildings). The revised rule specifies that the only type of construction and demolition debris that can be burned on site is "for the disposal of wood wastes and painted and unpainted wood from construction and demolition debris." Both previous and current versions of the rule require a permit for the burning of construction and demolition debris.

The 1972 rule contains an exemption that allows (with a permit) "open burning for training, research and recreational purposes except that fires for recreational purposes on a person's own property are not required to obtain a permit." The revised rule adds further restrictions to these activities. Specifically, recreational campfires kindled when the ground is not covered by snow require a permit, as do fires in conjunction with holiday and festive celebrations. Burning for "training" is now more strictly defined as being limited to "bona fide instruction and training of municipal or volunteer firefighters pursuant to Maine Revised Statutes Title 26, section 2102 and industrial fire fighters in methods of fighting fires when conducted under the direct control and supervision of qualified instructors and with a written objective for the training." In addition, "structures burned for instructional purposes must first be emptied of waste materials that are not part of the training objective."

The revised rule also strengthens the 1972 rule by defining open burning "recreational" activities that do not require a permit; these activities are now limited to: (1) Residential use of outdoor grills and fireplaces for recreational purposes; (2) recreational campfires kindled when the ground is covered by snow or on frozen bodies of water; and (3) the use of outdoor grills and fireplaces for recreational purposes at commercial campgrounds that are located in organized towns and licensed by the Department of Human Services. The rule also eliminates provisions that allowed permits to be issued for open burning of rubbish where no rubbish collection is available or "reasonably located" and where "there is no other suitable method for disposal." Additionally, in response to EPA comments, ME DEP has added a note to

the rule referencing reasonable precautions required by Maine statute 38 MRSA section 1296 to prevent the introduction of lead into the environment from lead-based paint.

III. Final Action

EPA is approving amendments to the Maine Chapter 102 Open Burning Rule, and incorporating the revised rule into the Maine SIP.

EPA has determined that the revised Maine Chapter 102 Open Burning Rule addresses all concerns expressed by EPA, is significantly more stringent and detailed than the existing EPA-approved rule, and will have a beneficial effect on air quality by reducing emissions of particulate matter, air toxics, and other pollutants, especially from the burning of lead-painted wood, plastics, metals, and other non-wood materials. This action is being taken in accordance with the Clean Air Act.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision. This rule will be effective April 21, 2008, without further notice unless the Agency receives relevant adverse comments by March 24, 2008.

If EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on April 21, 2008, and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Order Reviews

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

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

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

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 21, 2008. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Lead, Particulate matter, Volatile organic compounds.

Dated: January 16, 2008.

Robert W. Varney,

Regional Administrator, EPA New England.

■ Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart U—Maine

■ 2. Section 52.1020 is amended by adding paragraph (c)(61) to read as follows:

§ 52.1020 Identification of plan.

* * * * *

(c) * * *

(61) Revisions to the State Implementation Plan submitted by the Maine Department of Environmental Protection on April 27, 2005.

(i) Incorporation by reference.

(A) Chapter 102 of Maine Department of Environmental Protection Rules, entitled "Open Burning," effective in the State of Maine on April 25, 2005.

(B) State of Maine MAPA 1 form which provides certification that the Attorney General approved the rule as to form and legality, dated April 12, 2005.

■ 3. In § 52.1031, Table 52.1031 is amended by adding a new entry to existing state citation "102" to read as follows:

§ 52.1031 EPA-approved Maine regulations.

* * * * *

TABLE 52.1031.—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date adopted by State	Date approved by EPA	Federal Register citation	52.1020
*	*	*	*	*	*
102	Open Burning	3/17/05	2/21/08	[Insert Federal Register page number where the document begins].	(c)(61)
*	*	*	*	*	*

Note 1. The regulations are effective statewide unless stated otherwise in comments section.

[FR Doc. E8–3246 Filed 2–20–08; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 08–27]

Amendment of Part 0 of the Commission's Rules to Delegate Administration of Part 4 of the Commission's Rule to the Public Safety and Homeland Security Bureau

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In the *Order*, the Federal Communications Commission (Commission) amended the Commission's rules to delegate authority to the Public Safety and Homeland Security Bureau to administer the Commission's rules that pertain to disruptions to communications. This delegation is consistent with the purpose and functions of the Bureau to promote a more efficient, effective and responsive organizational structure and to better promote and address public safety, homeland security, national security, emergency management and preparedness, disaster management, and related issues. Establishment of the Public Safety and Homeland Security Bureau, *Order*, 21 FCC Rcd 13655 (2006).

DATES: Effective February 21, 2008.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Robert Krinsky, Attorney Advisor, Communications Systems Analysis Division, Public Safety and Homeland Security Bureau, Federal Communications Commission at (202) 418–2909; *Robert.Krinsky@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's non-docketed *Order*, FCC 08–27, adopted January 28, 2008 and released on January 30, 2008. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., in person at 445 12th Street, SW., Room CY–B402, Washington, DC 20554, via telephone at (202) 488–5300, via facsimile at (202) 488–5563, or via e-mail at *FCC@BCPIWEB.COM*. Alternative formats (computer diskette, large print, audio cassette, and Braille) are available to persons with disabilities by sending an e-mail to *FCC504@fcc.gov* or calling the Consumer and Governmental Affairs Bureau at (202) 418–0530, TTY (202) 418–0432. This document is also available on the Commission's Web site at *http://www.fcc.gov*.

Synopsis of the *Order*

1. In the *Order*, the Commission amends its rules to delegate authority to the Public Safety and Homeland Security Bureau (Bureau) to administer part 4 of the Commission's rules, which pertain to disruptions to communications.

2. On March 17, 2006, the Commission established the Bureau in order to promote a more efficient, effective and responsive organizational structure and to better promote and address public safety, homeland security, national security, emergency management and preparedness, disaster management, and related issues. Establishment of the Public Safety and Homeland Security Bureau, *Order*, 21 FCC Rcd 13655 (2006). The delegation of authority to the Bureau to administer the part 4 rules is consistent with the purpose and functions of the Bureau.

3. The delegation of this authority to the Bureau comports with § 0.191(g) of the Commission's rules, which provides, in pertinent part, that the Bureau "[c]onducts studies of public safety, homeland security, national security, emergency management and preparedness, disaster management, and related issues. Develops and administers recordkeeping and reporting requirements for communications companies pertaining to these issues. Administers any Commission information collection requirements pertaining to public safety, homeland security, national security, emergency management and preparedness, disaster management, and related issues." 47 CFR 0.191(g). The delegation of this authority to the Bureau is also consistent with § 0.392 of the Commission's rules, 47 CFR 0.392, which gives the Bureau delegated

authority to perform all functions of the Bureau described in § 0.191 of the Commission's rules. Further, the action we take in this Order is consistent with § 4.11 of the Commission's rules, which states that when outage reports cannot be submitted electronically using the Commission-approved Web-based system, written reports should be filed and all hand-delivered outage reports should be addressed to the Federal Communications Commission, The Office of Secretary, Attention: Chief, Public Safety & Homeland Security Bureau. 47 CFR 4.11.

4. Authority for the adoption of the foregoing revisions is contained in sections 1, 4(i), 4(j), 5(b), 5(c), 201(b) and 303(r) of the Communications Act of 1934, as amended. 47 U.S.C. 151, 154(i), 154(j), 155(b), 155(c), 201(b) and 303(r).

5. The adopted amendments pertain to agency organization, procedure and practice. Consequently, the notice and comment provisions of the Administrative Procedure Act contained in 5 U.S.C. 553(b) are inapplicable.

6. Accordingly, the Commission ordered that part 0 of the Commission Rules, set forth in Title 47 of the Code of Federal Regulations, be amended to delegate authority to the Public Safety and Homeland Security Bureau to administer part 4 of the Commission's rules, which pertain to disruptions to communications.

List of Subjects in 47 CFR Part 0

Organizations and functions (Government agencies).

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

■ For the reasons set forth in the preamble, the Federal Communications Commission amends part 0 of Title 47 of the Code of Federal Regulations as follows:

PART 0—COMMISSION ORGANIZATION

■ 1. The authority citation for part 0 continues to read as follows:

Authority: Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

■ 2. Section 0.31 is amended by revising paragraph (i) to read as follows:

§ 0.31 Functions of the Office.

* * * * *

(i) To administer parts 2, 5, 15, and 18 of this chapter, including licensing, recordkeeping, and rule making.

* * * * *

■ 3. Section 0.191 is amended by revising paragraph (g) to read as follows:

§ 0.191 Functions of the Bureau.

* * * * *

(g) Conducts studies of public safety, homeland security, national security, emergency management and preparedness, disaster management, and related issues. Develops and administers recordkeeping and reporting requirements for communications companies pertaining to these issues. Administers any Commission information collection requirements pertaining to public safety, homeland security, national security, emergency management and preparedness, disaster management, and related issues, including the communications disruption reporting requirements set forth in part 4 of this chapter and revision of the filing system and template used for the submission of those communications disruption reports.

* * * * *

■ 4. Section 0.241 is amended by revising paragraph (a)(1), removing paragraph (d), and redesignating paragraphs (e) through (i) as (d) through (h) to read as follows:

§ 0.241 Authority delegated.

* * * * *

(a) * * *

(1) Notices of proposed rulemaking and of inquiry and final orders in rulemaking proceedings, inquiry proceedings and non-editorial orders making changes.

* * * * *

■ 5. Section 0.392 is amended by adding new paragraph (i) to read as follows:

§ 0.392 Authority delegated.

* * * * *

(i) The Chief of the Public Safety and Homeland Security Bureau is delegated authority to administer the communications disruption reporting requirements contained in part 4 of this chapter and to revise the filing system and template used for the submission of such communications disruption reports.

[FR Doc. E8–3135 Filed 2–20–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 52

[WC Docket No. 04–36, CC Docket Nos. 95–116, 99–200; FCC 07–188]

IP-Enabled Services, Telephone Number Portability, Numbering Resource Optimization

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission adopted rules extending local number portability obligations and numbering administration support obligations to interconnected VoIP services and responded to the District of Columbia Circuit Court of Appeals stay of the Commission's *Intermodal Number Portability Order.*

DATES: Effective March 24, 2008.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Melissa Kirkel, Wireline Competition Bureau, (202) 418–1580.

SUPPLEMENTARY INFORMATION: In this Order, the Commission undertakes several steps to help ensure that consumers and competition benefit from local number portability (LNP) as intended by the Communications Act of 1934, as amended (the Act) and Commission precedent. First, the Commission extends LNP obligations and numbering administration support obligations to encompass interconnected VoIP services. Second, the Commission issues a Final Regulatory Flexibility Analysis (FRFA) in response to the D.C. Circuit's stay of the Commission's *Intermodal Number Portability Order.* The Commission finds that wireline carriers qualifying as small entities under the Regulatory Flexibility Act (RFA) should be required to port to wireless carriers where the requesting wireless carrier's "coverage area" overlaps the geographic location in which the customer's wireline number is provisioned, provided that the porting-in carrier maintains the number's original rate center designation following the port.

The Commission will send a copy of this Report and Order and Order on Remand 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).

Final Paperwork Reduction Act of 1995 Analysis

This document does not contain new or modified information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Synopsis of Report and Order

1. On March 10, 2004, the Commission initiated a proceeding to examine issues relating to Internet Protocol (IP)-enabled services—services and applications making use of IP, including, but not limited to, VoIP services. In the *IP-Enabled Services Notice* (69 FR 16193, Mar. 29, 2004), the Commission sought comment on, among other things, whether to extend the obligation to provide LNP to any class of IP-enabled service provider. The Commission also sought comment on whether the Commission should take any action to facilitate the growth of IP-enabled services, while at the same time maximizing the use and life of the North American Numbering Plan (NANP) numbering resources.

2. The Commission finds that the customers of interconnected VoIP services should receive the benefits of LNP. Such action is fundamentally important for the protection of consumers and is consistent with the authority granted to the Commission under section 251(e) and sections 1 and 2 of the Act. Moreover, as described below, by requiring interconnected VoIP providers and their numbering partners to ensure that users of interconnected VoIP services have the ability to port their telephone numbers when changing service providers to or from an interconnected VoIP provider, the Commission benefits not only customers but the interconnected VoIP providers themselves. (By "numbering partner," the Commission means the carrier from which an interconnected VoIP provider obtains numbering resources.) Specifically, the ability of end users to retain their NANP telephone numbers when changing service providers gives customers flexibility in the quality, price, and variety of services they can choose to purchase. Allowing customers to respond to price and service changes without changing their telephone numbers will enhance competition, a fundamental goal of section 251 of the Act, while helping to fulfill the Act's goal of facilitating "a rapid, efficient, Nation-wide, and world-wide wire and radio communication service." Additionally, the Commisison extends to interconnected VoIP providers the obligation to contribute to shared numbering administration costs. The Commission believes that the steps the Commission takes today to ensure regulatory parity among providers of similar services will minimize marketplace distortions arising from regulatory advantage.

A. Scope

3. Consistent with the Commission's previous decisions in the *IP-Enabled Services* proceeding, the Commission limits its decision to interconnected VoIP providers, in part because, unlike certain other IP-enabled services, the Commission continues to believe that interconnected VoIP service "is increasingly used to replace analog voice service," including, in some cases, local exchange service. Indeed, as interconnected VoIP service improves and proliferates, consumers' expectations for these services trend toward their expectations for other telephone services. Thus, consumers reasonably expect interconnected VoIP services to include regulatory protections such as emergency 911 service and LNP.

4. These characteristics of interconnected VoIP service support a finding that it is appropriate to extend LNP obligations to include such services, in light of the statute and Commission precedent. Congress expressly directed the Commission to prescribe requirements that all local exchange carriers (LECs) must meet to satisfy their statutory LNP obligations. In doing so, the Commission has required service providers that have not been found to be LECs but that are expected to compete against LECs to comply with the LNP obligations set forth in section 251(b)(2). In extending LNP rules to such providers, the Commission concluded, among other things, that imposing such obligations would "promote competition between providers of local telephone services and thereby promote competition between providers of interstate access services." Specifically, the Commission found that the availability of LNP would "eliminat[e] one major disincentive to switch carriers," and thus would facilitate "the successful entrance of new service providers" covered by the LNP rules. Indeed, the Commission determined that LNP not only would facilitate competition between such new service providers and wireline telecommunications carriers, but also would facilitate competition among the new service providers themselves. The Commission anticipated that the enhanced competition resulting from LNP would "stimulate the development of new services and technologies, and create incentives for carriers to lower prices and costs." The Commission further concluded that implementation of long-term LNP by these providers would help ensure "efficient use and uniform administration" of numbering resources. For these same policy reasons, the Commission extends the LNP obligations to interconnected VoIP providers.

5. To effectuate this policy, the Commission must address both the obligations of interconnected VoIP providers as well as the obligations of telecommunications carriers that serve interconnected VoIP providers as their numbering partners. Thus, the Commission takes this opportunity to reaffirm that only carriers, absent a Commission waiver, may access numbering resources directly from the North American Numbering Plan Administrator (NANPA) or the Pooling Administrator (PA). Section 52.15(g)(2) of the Commission's rules limits access to the NANP numbering resources to those applicants that are: (1) "authorized to provide service in the area for which the numbering resources are being requested"; and (2) "[are] or will be capable of providing service within sixty (60) days of the numbering resources activation date." It is well established that the Commission's rules allow only carriers direct access to NANP numbering resources to ensure that the numbers are used efficiently and to avoid number exhaust. Thus, many interconnected VoIP providers may not obtain numbering resources directly from the NANPA because they will not have obtained a license or a certificate of public convenience and necessity from the relevant states. Interconnected VoIP providers that have not obtained a license or certificate of public convenience and necessity from the relevant states or otherwise are not eligible to receive numbers directly from the administrators may make numbers available to their customers through commercial arrangements with carriers (i.e., numbering partners). The Commission emphasizes that ensuring compliance with the Commission's numbering rules, including LNP requirements, in such cases remains the responsibility of the carrier that obtains the numbering resource from the numbering administrator as well as the responsibility of the interconnected VoIP provider. Additionally, with this

Order, the Commission clarifies that LECs and CMRS providers have an obligation to port numbers to interconnected VoIP providers and their numbering partners subject to a valid port request.

B. Authority

6. In this Order, the Commission concludes that the Commission has ample authority to extend LNP obligations and numbering administration support obligations to interconnected VoIP providers. Specifically, the Commission concludes that it has authority to extend LNP obligations and numbering administration support obligations to interconnected VoIP providers and their numbering partners under the Commission's plenary numbering authority pursuant to section 251(e) of the Act. The Commission further finds authority in section 251(b)(2) of the Act for the obligations it extends to numbering partners that serve interconnected VoIP providers. Separately, the Commission analyzes the extension of the Commission's rules to interconnected VoIP providers under the Commission's Title I ancillary jurisdiction.

7. *Plenary Numbering Authority.* Consistent with Commission precedent, the Commission finds that the plenary numbering authority that Congress granted this Commission under section 251(e)(1) provides ample authority to extend the LNP requirements set out in this Order to interconnected VoIP providers and their numbering partners. Specifically, in section 251(e)(1) of the Act, Congress expressly assigned to the Commission exclusive jurisdiction over that portion of the NANP that pertains to the United States. The Commission retained its "authority to set policy with respect to all facets of numbering administration in the United States." To the extent that an interconnected VoIP provider provides services that offer its customers NANP telephone numbers, both the interconnected VoIP provider and the telecommunications carrier that secures the numbering resource from the numbering administrator subject themselves to the Commission's plenary authority under section 251(e)(1) with respect to those numbers.

8. *Section 251(b)(2) Authority over Telecommunications Carriers.* The Commission finds that section 251(b)(2) provides an additional source of authority to impose LNP obligations on the LEC numbering partners of interconnected VoIP providers. Section 251(b)(2) states that all LECs have a "duty to provide, to the extent technically feasible, number portability in accordance with the requirements prescribed by the Commission." The Commission has long held that it has "authority to require that number portability be implemented 'to the extent technically feasible' and that the Commission's authority under section 251(b)(2) encompasses all forms of number portability." The Commission's application of this authority is informed by the Act's focus on protecting consumers through number portability. Section 3 of the Act defines "number portability" as "the ability of *users* of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another." (emphasis added) In this Order, the Commission prescribes requirements that expand number portability to include ports to and from interconnected VoIP providers, and therefore find that section 251(b)(2) grants the Commission authority to impose obligations on the interconnected VoIP providers' LEC numbering partners to effectuate those requirements. By holding the LEC numbering partner responsible for ensuring a porting request is honored to the extent technically feasible, the Commission thus abides by this statutory mandate. The Commission interprets section 251(b)(2) to include a number porting obligation even when the switching of "carriers" occurs at the wholesale rather than retail level. Given Congress's imposition of the number portability obligations on all such carriers and the broad terms of the obligation itself, the Commission believes that its interpretation is a reasonable interpretation of the statute. To find otherwise would permit carriers to avoid numbering obligations simply by creating an interconnected VoIP provider affiliate and assigning the number to such affiliate. Further, to ensure that consumers retain this benefit as technology evolves, the Commission continues to believe that Congress's intent is that number portability be a "dynamic concept" that accommodates such changes. The Commission previously has found that it has the authority to alter the scope of porting obligations due to technological changes in how numbers are ported. Similarly, the Act provides ample authority for the logical extension of porting obligations due to technological changes in how telephone service is provided to end-user customers. The Commission exercises its authority under the Act to ensure that consumers' interests in their existing telephone numbers are adequately protected whether the customer is using a telephone number obtained from a LEC directly or indirectly via an interconnected VoIP provider. In either case, the LEC or LEC numbering partner must comply with the Commission's LNP rules.

9. *Ancillary Jurisdiction over Interconnected VoIP Services.* The Commission further concludes that the Commission has a separate additional source of authority under Title I of the Act to impose LNP obligations and numbering administration support obligations on interconnected VoIP providers. Ancillary jurisdiction may be employed, in the Commission's discretion, when Title I of the Act gives the Commission subject matter jurisdiction over the service to be regulated and the assertion of jurisdiction is "reasonably ancillary to the effective performance of [its] various responsibilities." Both predicates for ancillary jurisdiction are satisfied here.

10. First, as the Commission concluded in previous orders, interconnected VoIP services fall within the subject matter jurisdiction granted to the Commission in the Act. Section 1 of the Act, moreover, charges the Commission with responsibility for making available "a rapid, efficient, Nation-wide, and world-wide wire and radio communication service." Thus, section 1, in conjunction with section 251, creates a significant federal interest in the efficient use of numbering resources. Second, the Commission finds that requiring interconnected VoIP providers to comply with LNP rules and cost recovery mechanisms is reasonably ancillary to the effective performance of the Commission's fundamental responsibilities. As noted above, section 251(b)(2) of the Act requires LECs to provide number portability in accordance with the requirements prescribed by the Commission to the extent technically feasible. Further, section 251(e)(2) requires all carriers to bear the costs of numbering administration and number portability on a competitively neutral basis as defined by the Commission, and thereby seeks to prevent those costs from undermining competition. The Commission has interpreted section 251(e)(2) broadly to extend to all carriers that utilize NANP telephone numbers and benefit from number portability. In addition, as discussed above, section 1 of the Act charges the Commission with responsibility for making available "a rapid, efficient, Nation-wide, and world-wide wire and radio communication service." Because

interconnected VoIP service operates through the use of NANP telephone numbers and benefits from NANP administration and because this service is "increasingly used to replace analog voice service"—a trend that the Commission expects to continue—it is important that the Commission take steps to ensure that interconnected VoIP service use of NANP numbers does not disrupt national policies adopted pursuant to section 251. As the Commission previously has stated, the Commission "believe[s] it is important that [the Commission] adopt uniform national rules regarding number portability implementation and deployment to ensure efficient and consistent use of number portability methods and numbering resources on a nationwide basis. Implementation of number portability, and its effect on numbering resources, will have an impact on interstate, as well as local, telecommunications services." Additionally, the Commission has found that those providers that benefit from number resources should also bear the costs.

11. Extending LNP obligations to interconnected VoIP providers is "reasonably ancillary" to the performance of the Commission's obligations under section 251 and section 1 of the Act. If the Commission failed to do so, American consumers might not benefit from new technologies because they would be unable to transfer their NANP telephone numbers between service providers and thus would be less likely to want to use a new provider. As a result, the purposes and effectiveness of section 251, as well as section 1, would be greatly undermined. The ability of end users to retain their NANP telephone numbers when changing service providers gives customers flexibility in the quality, price, and variety of services they can choose to purchase. Allowing customers to respond to price and service changes without changing their telephone numbers will enhance competition, a fundamental goal of section 251 of the Act, while helping to fulfill the Act's goal of facilitating "a rapid, efficient, Nation-wide, and world-wide wire and radio communication service."

12. Further, if the Commission failed to exercise its ancillary jurisdiction, interconnected VoIP providers would sustain a competitive advantage against telecommunications carriers through the use and porting of NANP telephone numbers without bearing their share of the costs of LNP and NANP administration, thus defeating the critical requirement under section 251(e) that carriers bear such costs on a competitively neutral basis. Additionally, the Commission extends the LNP obligations to interconnected VoIP providers because doing so will have a positive impact on the efficient use of the Commission's limited numbering resources. The Commission avoids number waste by preventing an interconnected VoIP provider from porting-in a number from a carrier (often through its numbering partner) and then later refusing to port-out at the customer's request by arguing that no such porting obligation exists. Failure to extend LNP obligations to interconnected VoIP providers and their numbering partners would thwart the effective and efficient administration of the Commission's numbering administration responsibilities under section 251 of the Act. Therefore, extending the LNP and numbering administration support obligations to interconnected VoIP providers is "reasonably ancillary to the effective performance of the Commission's * * * responsibilities" under sections 251 and 1 of the Act and "will 'further the achievement of long-established regulatory goals'" to make available an efficient and competitive communication service.

13. The Commission believes that the language in section 251(e)(2), which phrases the obligation to contribute to the costs of numbering administration as applicable to "all telecommunications carriers," reflects Congress's intent to ensure that no telecommunications carriers were omitted from the contribution obligation, and does not preclude the Commission from exercising its ancillary authority to require other providers of comparable services to make such contributions. Thus, the language does not circumscribe the class of carriers that may be required to support numbering administration. The legislative history of the Telecommunications Act of 1996 (1996 Act) supports this view and indicates that Congress desired that such costs be borne by "all providers." Because interconnected VoIP services are increasingly being used as a substitute for traditional telephone service, the Commission finds that its exercise of ancillary authority to require contributions from interconnected VoIP providers is consistent with this statutory language and Congressional intent. The statutory construction maxim of expressio unius est exclusio alterius—the mention of one thing implies the exclusion of another—does not require a different result. This maxim is non-binding and "is often misused." "The maxim's force in particular situations depends entirely on context, whether or not the draftsmen's mention of one thing, like a grant of authority, does really necessarily, or at least reasonably, imply the preclusion of alternatives." Here, the Commission believes that the relevant language in section 251(e)(2) was designed to ensure that no telecommunications carriers were omitted from the contribution obligation, and not to preclude the Commission from exercising its ancillary authority to require others to make such contributions. Absent any affirmative evidence that Congress intended to limit the Commission's judicially recognized ancillary jurisdiction in this area, the Commission finds that the expressio unius maxim "is simply too thin a reed to support the conclusion that Congress has clearly resolved [the] issue."

14. The Commission also notes that its actions here are consistent with other provisions of the Act. For example, the Commission is guided by section 706 of the 1996 Act, which, among other things, directs the Commission to encourage the deployment of advanced telecommunications capability to all Americans by using measures that "promote competition in the local telecommunications market." The extension of the LNP obligations to interconnected VoIP providers may spur consumer demand for their service, in turn driving demand for broadband connections, and consequently encouraging more broadband investment and deployment consistent with the goals of section 706.

C. Local Number Portability Obligations

15. As the Commission discusses in detail above, imposing LNP and numbering administration support requirements on interconnected VoIP providers and their numbering partners is consistent with both the language of the Act and the Commission's policies implementing the LNP obligations. To ensure that consumers enjoy the full benefits of LNP and to maintain competitively neutral funding of numbering administration, the Commission imposes specific requirements to effectuate this policy.

16. *Porting Obligations of an Interconnected VoIP Provider and its Numbering Partner.* As discussed above, section 3 of the Act defines local "number portability" as "the ability of *users* of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one

telecommunications carrier to another." The Commission finds that the "user" in this context is the end-user customer that subscribes to the interconnected VoIP service and not the interconnected VoIP provider. To find otherwise would contravene the LNP goals of "allowing customers to respond to price and service changes without changing their telephone numbers." Thus, it is the end-user customer that retains the right to port-in the number to an interconnected VoIP service or to port-out the number from an interconnected VoIP service.

17. As discussed above, both an interconnected VoIP provider and its numbering partner must facilitate a customer's porting request to or from an interconnected VoIP provider. By "facilitate," the Commission means that the interconnected VoIP provider has an affirmative legal obligation to take all steps necessary to initiate or allow a port-in or port-out itself or through its numbering partner on behalf of the interconnected VoIP customer (i.e., the "user"), subject to a valid port request, without unreasonable delay or unreasonable procedures that have the effect of delaying or denying porting of the number. The Commission recognizes that when an interconnected VoIP provider obtains NANP telephone numbers and LNP capability through a numbering partner, the interconnected VoIP provider does not itself execute the port of the number from a technical perspective. In such situations, the interconnected VoIP provider must take any steps necessary to facilitate its numbering partner's technical execution of the port.

18. The Commission also finds that interconnected VoIP providers and their numbering partners may not enter into agreements that would prohibit or unreasonably delay an interconnected VoIP service end user from porting between interconnected VoIP providers, or to or from a wireline carrier or a covered CMRS provider. Because LNP promotes competition and consumer choice, the Commission finds that any agreement by interconnected VoIP providers or their numbering partners that prohibits or unreasonably delays porting could undermine the benefits of LNP to consumers. Additionally, because the Commission determines that the carrier that obtains the number from the NANPA is also responsible for ensuring compliance with these obligations, such porting-related restrictions would contravene that carrier's section 251(b)(2) obligation. To the extent that carriers with direct access to numbers do not have an LNP obligation, that exemption from LNP only extends to the exempt service and not to that carrier's activities as a numbering partner for an interconnected VoIP provider. If an interconnected VoIP provider or its numbering partner attempts to thwart an end user's valid porting request, that provider or carrier will be subject to Commission enforcement action for a violation of the Act and the Commission's LNP rules. Further, no interconnected VoIP provider may contract with its customer to prevent or hinder the rights of that customer to port its number because doing so would violate the LNP obligations placed on interconnected VoIP providers in this Order. To the extent that interconnected VoIP providers have existing contractual provisions that have the effect of unreasonably delaying or denying porting, such provisions do not supersede or otherwise affect the porting obligations established in this Order.

19. *Scope of Porting Obligations.* The Commission's porting obligations vary depending on whether a service is provided by a wireline carrier or a covered CMRS provider. As described above, interconnected VoIP providers generally obtain NANP telephone numbers through commercial arrangements with one or more traditional telecommunications carriers. As a result, the porting obligations to or from an interconnected VoIP service stem from the status of the interconnected VoIP provider's numbering partner and the status of the provider to or from which the NANP telephone number is ported. For example, subject to a valid port request on behalf of the user, an interconnected VoIP provider that partners with a wireline carrier for numbering resources must, in conjunction with its numbering partner, port-out a NANP telephone number to: (1) A wireless carrier whose coverage area overlaps with the geographic location of the porting-out numbering partner's rate center; (2) a wireline carrier with facilities or numbering resources in the same rate center; or (3) another interconnected VoIP provider whose numbering partner meets the requirements of (1) or (2). Similarly, subject to a valid port request on behalf of the user, an interconnected VoIP provider that partners with a covered CMRS provider for numbering resources must, in conjunction with its numbering partner, port-out a NANP telephone number to: (1) Another wireless carrier; (2) a wireline carrier within the telephone number's originating rate center; or (3) another interconnected VoIP provider whose numbering partner meets the requirements of (1) or (2).

20. The Commission notes that because interconnected VoIP providers offer telephone numbers not necessarily based on the geographic location of their customers—many times at their customers' requests—there may be limits to number porting between providers. The Act only provides for service provider portability and does not address service or location portability. *See First Number Portability Order,* 11 FCC Rcd at 8447, para. 181. Thus, for example, if an interconnected VoIP service customer selects a number outside his current rate center, or if the interconnected VoIP service customer selects a number within his geographic rate center and moves out of that rate center, and then requests porting to a wireline carrier in his new rate center, the customer would not be able to port the number. *See* 47 CFR 52.26(a). The Commission expects interconnected VoIP providers to fully inform their customers about these limitations, particularly limitations that result from the portable nature of, and use of non-geographic numbers by, certain interconnected VoIP services.

21. The Commission also clarifies that carriers have an obligation under the Commission's rules to port-out NANP telephone numbers, upon valid request, for a user that is porting that number for use with an interconnected VoIP service. For example, subject to a valid port request on behalf of the user, a wireline carrier must port-out a NANP telephone number to: (1) An interconnected VoIP provider that partners with a wireless carrier for numbering resources, where the partnering wireless carrier's coverage area overlaps with the geographic location of the porting-out wireline carrier's rate center; or (2) an interconnected VoIP provider that partners with a wireline carrier for numbering resources, where the partnering wireline carrier has facilities or numbering resources in the same rate center as the porting-out wireline carrier. Similarly, subject to a valid port request on behalf of the user, a wireless carrier must port-out a NANP telephone number to: (1) An interconnected VoIP provider that partners with a wireless carrier; or (2) an interconnected VoIP provider that partners with a wireline carrier for numbering resources, where the partnering wireline carrier is within the number's originating rate center. The Commission clarifies that carriers must port-out NANP telephone numbers upon valid requests from an interconnected VoIP provider (or from its associated numbering partner). To

the extent that an interconnected VoIP provider is certificated or licensed as a carrier, then the Title II LNP obligations to port-in or port-out to the carrier are already determined by existing law. *See, e.g.*, 47 CFR 52.26(a).

22. The Commission declines to adopt new porting intervals that apply specifically to ports between interconnected VoIP providers and other providers through a numbering partner. The intervals that would be applicable to ports between the numbering partner and the other provider, if the port were not related to an interconnected VoIP service, will apply to the port of the NANP telephone number between the numbering partner and the other provider (or the other provider's numbering partner) when the end user with porting rights is a customer of the interconnected VoIP provider.

23. The Commission takes seriously its responsibilities to safeguard the Commission's scarce numbering resources and to implement LNP obligations for the benefit of consumers. Consumers, carriers, or interconnected VoIP providers may file complaints with the Commission if they experience unreasonable delay or denial of number porting to or from an interconnected VoIP provider in violation of the Commission's LNP rules. The Commission will not hesitate to enforce its LNP rules to ensure that consumers are free to choose among service providers, subject to its LNP rules, without fear of losing their telephone numbers.

24. *Allocation of LNP Costs.* Section 251(e)(2) provides that "[t]he cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission." Because interconnected VoIP providers benefit from LNP, the Commission finds that they should contribute to meet the shared LNP costs. Further, similar to the Commission's finding in its *Cost Recovery Reconsideration Order*, the Commission also believes that interconnected VoIP providers may find it costly and administratively burdensome to develop region-specific attribution systems for all of their end-user services, and thus the Commission allows these providers to use a proxy based on the percentage of subscribers a provider serves in a particular region for reaching an estimate for allocating their end-user revenues to the appropriate regional LNPA. Providers that submit an attestation certifying that they are unable to divide their traffic and resulting end-user revenue among the seven LNPA regions precisely will be allowed to divide their end-user revenue among these regions based on the percentage of subscribers served in each region. Providers may use their billing databases to identify subscriber location.

D. Numbering Administration Cost Requirements

25. Although interconnected VoIP providers do not have any specific numbering administration requirements (e.g., pooling requirements), they do require the use of NANP numbering resources to provide an interconnected VoIP service, and thereby benefit from and impose costs related to numbering administration. Thus, the Commission requires interconnected VoIP providers to contribute to meet the shared numbering administration costs on a competitively neutral basis.

E. Implementation

26. The LNP obligations adopted in this Order for interconnected VoIP providers and their numbering partners become effective 30 days after **Federal Register** publication. The reporting requirements for determining interconnected VoIP providers' contribution to the shared costs of numbering administration and LNP require interconnected VoIP providers to file an annual FCC Form 499–A. To ensure that interconnected VoIP providers' contributions for numbering administration and LNP are allocated properly, interconnected VoIP providers should include in their annual FCC Form 499–A filing historical revenue information for the relevant year, including all information necessary to allocate revenues across the seven LNPA regions (e.g., January 2007 through December 2007 revenue information for the April 2008 filing). The Commission will revise FCC Form 499–A at a later date, consistent with the rules and policies outlined in this Order. Interconnected VoIP providers, however, should familiarize themselves with the FCC Form 499–A and the accompanying instructions in preparation for this filing. Based on these filings, the appropriate administrators will calculate the funding base and individual contributions for each support mechanism, and provide an invoice to each interconnected VoIP provider for its contribution to the shared costs of the respective support mechanism. The Commission finds that USAC should be prepared to collect this information with the next annual filing, and that the LNPA and the NANP billing and collection agent should be prepared to include interconnected VoIP provider revenues in their calculations for the 2008 funding year based on the next annual FCC Form 499–A filings.

Synopsis of Order on Remand

27. In its 2003 *Intermodal Number Portability Order* (68 FR 68831, Dec. 10, 2003), the Commission clarified that porting from a wireline carrier to a wireless carrier is required where the requesting wireless carrier's coverage area overlaps the geographic location in which the wireline number is provisioned, provided that the porting-in carrier maintains the number's original rate center designation following the port. On March 11, 2005, the United States Court of Appeals for the District of Columbia Circuit remanded the *Intermodal Number Portability Order* to the Commission. The court determined that the *Intermodal Number Portability Order* resulted in a legislative rule, and that the Commission had failed to prepare a FRFA regarding the impact of that rule on small entities, as required by the RFA. The court accordingly directed the Commission to prepare the required FRFA, and stayed future enforcement of the *Intermodal Number Portability Order* "as applied to carriers that qualify as small entities under the RFA" until the agency prepared and published that analysis. On April 22, 2005, the Commission issued a Public Notice seeking comment on an IRFA of the *Intermodal Number Portability Order* (70 FR 41655, July 20, 2005).

28. In accordance with the requirements of the RFA, the Commission has considered the potential economic impact of the intermodal porting rules on small entities and concludes that wireline carriers qualifying as small entities under the RFA will be required to provide wireline-to-wireless intermodal porting where the requesting wireless carrier's "coverage area" overlaps the geographic location in which the customer's wireline number is provisioned, provided that the porting-in carrier maintains the number's original rate center designation following the port. The Commission has prepared a FRFA as directed by the court, which is the second of two FRFAs set forth below.

Final Regulatory Flexibility Analysis, WC Docket No. 04–36 (Interconnected VoIP Services)

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the

IP–Enabled Services Notice in WC Docket No. 04–36 (69 FR 16193, Mar. 29, 2004). The Commission sought written public comment on the proposals in the notice, including comment on the IRFA. The Commission received comments specifically directed toward the IRFA from three commenters in WC Docket No. 04–36. These comments are discussed below. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Rules

2. This Report and Order extends LNP obligations to interconnected voice over Internet Protocol (VoIP) providers to ensure that customers of such VoIP providers may port their North American Numbering Plan (NANP) telephone numbers when changing providers. Consumers will now be able to take advantage of new telephone services without losing their telephone numbers, which should in turn facilitate greater competition among telephony providers by allowing customers to respond to price and service changes. Additionally, this Report and Order extends to interconnected VoIP providers the obligation to contribute to shared numbering administration and number portability costs. The Commission believes these steps it takes to ensure regulatory parity among providers of similar services will minimize marketplace distortions arising from regulatory advantage.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

3. In this section, the Commission responds to comments filed in response to the IRFA. To the extent the Commission received comments raising general small business concerns during this proceeding, those comments are discussed throughout the Report and Order.

4. The Small Business Administration (SBA) comments that the Commission's Notice does not contain concrete proposals and is more akin to an advance notice of proposed rulemaking or a notice of inquiry. The Commission disagrees with the SBA and Menard that the Commission should postpone acting in this proceeding—thereby postponing extending the application of the LNP and numbering administration support obligations to interconnected VoIP services—and instead should reevaluate the economic impact and the compliance burdens on small entities and issue a further notice of proposed rulemaking in conjunction with a supplemental IRFA identifying and analyzing the economic impacts on small entities and less burdensome alternatives. The Commission believes these additional steps suggested by SBA and Menard are unnecessary because small entities already have received sufficient notice of the issues addressed in today's Report and Order, and because the Commission has considered the economic impact on small entities and what ways are feasible to minimize the burdens imposed on those entities, and, to the extent feasible, has implemented those less burdensome alternatives. The *IP-Enabled Services Notice* specifically sought comment on whether numbering obligations are appropriate in the context of IP-enabled services and whether action relating to numbering resources is desirable to facilitate the growth of IP-enabled services, while at the same time continuing to maximize the use and life of numbering resources in the North American Numbering Plan. The Commission published a summary of that notice in the **Federal Register**. *See Regulatory Requirements for IP-Enabled Services,* WC Docket No. 04–36, Notice of Proposed Rulemaking, 69 FR 16193 (Mar. 29, 2004). The Commission notes that a number of small entities submitted comments in this proceeding.

C. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

5. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

6. *Small Businesses.* Nationwide, there are a total of approximately 22.4 million small businesses according to SBA data.

7. *Small Organizations.* Nationwide, there are approximately 1.6 million small organizations.

8. *Small Governmental Jurisdictions.* The term "small governmental jurisdiction" is defined generally as "governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand." Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States. The Commission estimates that, of this total, 84,377 entities were "small governmental jurisdictions." Thus, the Commission estimates that most governmental jurisdictions are small.

1. Telecommunications Service Entities

a. Wireline Carriers and Service Providers

9. The Commission has included small incumbent local exchange carriers (LECs) in this present RFA analysis. As noted above, a "small business" under the RFA is one that, inter alia, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees) and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. The Commission has therefore included small incumbent LECs in this RFA analysis, although the Commission emphasizes that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

10. *Incumbent LECs.* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent LECs. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,303 carriers have reported that they are engaged in the provision of incumbent local exchange services. Of these 1,303 carriers, an estimated 1,020 have 1,500 or fewer employees and 283 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the Commission's action.

11. *Competitive LECs, Competitive Access Providers (CAPs), "Shared-Tenant Service Providers," and "Other Local Service Providers."* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 859 carriers have reported that they are engaged in the provision of either competitive access provider services or

competitive LEC services. Of these 859 carriers, an estimated 741 have 1,500 or fewer employees and 118 have more than 1,500 employees. In addition, 16 carriers have reported that they are "Shared-Tenant Service Providers," and all 16 are estimated to have 1,500 or fewer employees. In addition, 44 carriers have reported that they are "Other Local Service Providers." Of the 44, an estimated 43 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, "Shared-Tenant Service Providers," and "Other Local Service Providers" are small entities.

12. *Local Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 184 carriers have reported that they are engaged in the provision of local resale services. Of these, an estimated 181 have 1,500 or fewer employees and three have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by the Commission's action.

13. *Toll Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services. Of these, an estimated 853 have 1,500 or fewer employees and 28 have more than 1,500 employees. Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by the Commission's action.

14. *Payphone Service Providers (PSPs).* Neither the Commission nor the SBA has developed a small business size standard specifically for payphone services providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 657 carriers have reported that they are engaged in the provision of payphone services. Of these, an estimated 653 have 1,500 or fewer employees and four have more than 1,500 employees. Consequently, the Commission estimates that the majority of payphone service providers are small entities that may be affected by the Commission's action.

15. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 330 carriers have reported that they are engaged in the provision of interexchange service. Of these, an estimated 309 have 1,500 or fewer employees and 21 have more than 1,500 employees. Consequently, the Commission estimates that the majority of IXCs are small entities that may be affected by the Commission's action.

16. *Operator Service Providers (OSPs).* Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 23 carriers have reported that they are engaged in the provision of operator services. Of these, an estimated 22 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that the majority of OSPs are small entities that may be affected by the Commission's action.

17. *Prepaid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 104 carriers have reported that they are engaged in the provision of prepaid calling cards. Of these, 102 are estimated to have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that all or the majority of prepaid calling card providers are small entities that may be affected by the Commission's action.

18. 800 and 800-Like Service Subscribers. These toll-free services fall within the broad economic census category of Telecommunications Resellers. This category "comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure." The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer employees. Census Bureau data for 2002 show that there were 1,646 firms in this category that operated for the entire year. Of this total, 1,642 firms had employment of 999 or fewer employees, and four firms had employment of 1,000 employees or more. Thus, the majority of these firms can be considered small. Additionally, it may be helpful to know the total numbers of telephone numbers assigned in these services. Commission data show that, as of June 2006, the total number of 800 numbers assigned was 7,647,941, the total number of 888 numbers assigned was 5,318,667, the total number of 877 numbers assigned was 4,431,162, and the total number of 866 numbers assigned was 6,008,976.

b. International Service Providers

19. The Commission has not developed a small business size standard specifically for providers of international service. The appropriate size standards under SBA rules are for the two broad census categories of "Satellite Telecommunications" and "Other Telecommunications." Under both categories, such a business is small if it has $13.5 million or less in average annual receipts.

20. The first category of Satellite Telecommunications "comprises establishments primarily engaged in providing point-to-point telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications." For this category, Census Bureau data for 2002 show that there were a total of 371 firms that operated for the entire year. Of this total, 307 firms had annual receipts of under $10 million, and 26 firms had receipts of $10 million to $24,999,999. Consequently, the Commission estimates that the majority of Satellite Telecommunications firms are small entities that might be affected by the Commission's action.

21. The second category of Other Telecommunications "comprises establishments primarily engaged in (1) providing specialized telecommunications applications, such as satellite tracking, communications

telemetry, and radar station operations; or (2) providing satellite terminal stations and associated facilities operationally connected with one or more terrestrial communications systems and capable of transmitting telecommunications to or receiving telecommunications from satellite systems." For this category, Census Bureau data for 2002 show that there were a total of 332 firms that operated for the entire year. Of this total, 259 firms had annual receipts of under $10 million and 15 firms had annual receipts of $10 million to $24,999,999. Consequently, the Commission estimates that the majority of Other Telecommunications firms are small entities that might be affected by the Commission's action.

c. Wireless Telecommunications Service Providers

22. Below, for those services subject to auctions, the Commission notes that, as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

23. Wireless Service Providers. The SBA has developed a small business size standard for wireless firms within the two broad economic census categories of "Paging" and "Cellular and Other Wireless Telecommunications." Under both SBA categories, a wireless business is small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 2002 show that there were 807 firms in this category that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. Thus, under this category and associated small business size standard, the majority of firms can be considered small. For the census category of Cellular and Other Wireless Telecommunications, Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, under this second category and size standard, the majority of firms can, again, be considered small.

24. *Cellular Licensees.* The SBA has developed a small business size standard for wireless firms within the broad economic census category "Cellular and Other Wireless Telecommunications." Under this SBA category, a wireless business is small if it has 1,500 or fewer employees. For the census category of Cellular and Other Wireless Telecommunications, Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, under this category and size standard, the majority of firms can be considered small. Also, according to Commission data, 437 carriers reported that they were engaged in the provision of cellular service, Personal Communications Service (PCS), or Specialized Mobile Radio (SMR) Telephony services, which are placed together in the data. The Commission has estimated that 260 of these are small under the SBA small business size standard.

25. *Paging.* The SBA has developed a small business size standard for the broad economic census category of "Paging." Under this category, the SBA deems a wireless business to be small if it has 1,500 or fewer employees. Census Bureau data for 2002 show that there were 807 firms in this category that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. In addition, according to Commission data, 365 carriers have reported that they are engaged in the provision of "Paging and Messaging Service." Of this total, the Commission estimates that 360 have 1,500 or fewer employees, and five have more than 1,500 employees. Thus, in this category the majority of firms can be considered small.

26. The Commission also notes that, in the *Paging Second Report and Order* (62 FR 11616, Mar. 12, 1997), the Commission adopted a size standard for "small businesses" for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. In this context, a small business is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. The SBA has approved this definition. An auction of Metropolitan Economic Area (MEA) licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 2,499 licenses auctioned, 985 were sold. Fifty-seven companies claiming small business status won 440 licenses. An auction of MEA and Economic Area (EA) licenses commenced on October 30, 2001, and closed on December 5, 2001. Of the 15,514 licenses auctioned, 5,323 were sold. One hundred thirty-two companies claiming small business status purchased 3,724 licenses. A third auction, consisting of 8,874 licenses in each of 175 EAs and 1,328 licenses in all but three of the 51 MEAs commenced on May 13, 2003, and closed on May 28, 2003. Seventy-seven bidders claiming small or very small business status won 2,093 licenses. The Commission also notes that, currently, there are approximately 74,000 Common Carrier Paging licenses.

27. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission established small business size standards for the wireless communications services (WCS) auction. A "small business" is an entity with average gross revenues of $40 million or less for each of the three preceding years, and a "very small business" is an entity with average gross revenues of $15 million or less for each of the three preceding years. The SBA has approved these small business size standards. The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as "very small business" entities, and one that qualified as a "small business" entity.

28. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services (PCS), and specialized mobile radio (SMR) telephony carriers. As noted earlier, the SBA has developed a small business size standard for "Cellular and Other Wireless Telecommunications" services. Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to Commission data, 432 carriers reported that they were engaged in the provision of wireless telephony. The Commission has estimated that 221 of these are small under the SBA small business size standard.

29. *Broadband Personal Communications Service.* The broadband Personal Communications Service (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined "small entity" for Blocks C and F as an entity that has average gross revenues of $40 million or less in the three previous calendar years. For Block F, an additional classification for "very small business" was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than

$15 million for the preceding three calendar years. These standards defining "small entity" in the context of broadband PCS auctions have been approved by the SBA. No small businesses, within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F. On March 23, 1999, the Commission re-auctioned 347 C, D, E, and F Block licenses. There were 48 small business winning bidders. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as "small" or "very small" businesses. Subsequent events, concerning Auction 35, including judicial and agency determinations, resulted in a total of 163 C and F Block licenses being available for grant.

30. *Narrowband Personal Communications Services.* The Commission held an auction for Narrowband PCS licenses that commenced on July 25, 1994, and closed on July 29, 1994. A second auction commenced on October 26, 1994 and closed on November 8, 1994. For purposes of the first two Narrowband PCS auctions, "small businesses" were entities with average gross revenues for the prior three calendar years of $40 million or less. Through these auctions, the Commission awarded a total of 41 licenses, 11 of which were obtained by four small businesses. To ensure meaningful participation by small business entities in future auctions, the Commission adopted a two-tiered small business size standard in the *Narrowband PCS Second Report and Order* (65 FR 35875, Jun. 6, 2000). A "small business" is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A "very small business" is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. The SBA has approved these small business size standards. A third auction commenced on October 3, 2001 and closed on October 16, 2001. Here, five bidders won 317 (Metropolitan Trading Areas and nationwide) licenses. Three of these claimed status as a small or very small entity and won 311 licenses.

31. *220 MHz Radio Service—Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a small business size standard for small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, the Commission applies the small business size standard under the SBA rules applicable to "Cellular and Other Wireless Telecommunications" companies. This category provides that a small business is a wireless company employing no more than 1,500 persons. For the census category Cellular and Other Wireless Telecommunications, Census Bureau data for 1997 show that there were 977 firms in this category, total, that operated for the entire year. Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more. Thus, under this second category and size standard, the majority of firms can, again, be considered small. Assuming this general ratio continues in the context of Phase I 220 MHz licensees, the Commission estimates that nearly all such licensees are small businesses under the SBA's small business size standard. In addition, limited preliminary census data for 2002 indicate that the total number of cellular and other wireless telecommunications carriers increased approximately 321 percent from 1997 to 2002.

32. *220 MHz Radio Service—Phase II Licensees.* The 220 MHz service has both Phase I and Phase II licenses. The Phase II 220 MHz service is a new service and is subject to spectrum auctions. In the *220 MHz Third Report and Order* (62 FR 16004, Apr. 3, 1997), the Commission adopted a small business size standard for "small" and "very small" businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. This small business size standard indicates that a "small business" is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. A "very small business" is an entity that, together with its affiliates and controlling principals, has average gross revenues that do not exceed $3 million for the preceding three years. The SBA has approved these small business size standards. Auctions of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. In the first auction, 908 licenses were auctioned in three different-sized geographic areas: three nationwide licenses, 30 Regional Economic Area Group (EAG) Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Thirty-nine small businesses won licenses in the first 220 MHz auction. The second auction included 225 licenses: 216 EA licenses and 9 EAG licenses. Fourteen companies claiming small business status won 158 licenses.

33. *800 MHz and 900 MHz Specialized Mobile Radio Licenses.* The Commission awards "small entity" and "very small entity" bidding credits in auctions for Specialized Mobile Radio (SMR) geographic area licenses in the 800 MHz and 900 MHz bands to firms that had revenues of no more than $15 million in each of the three previous calendar years, or that had revenues of no more than $3 million in each of the previous calendar years, respectively. These bidding credits apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. The Commission assumes, for purposes here, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA. The Commission has held auctions for geographic area licenses in the 800 MHz and 900 MHz SMR bands. There were 60 winning bidders that qualified as small or very small entities in the 900 MHz SMR auctions. Of the 1,020 licenses won in the 900 MHz auction, bidders qualifying as small or very small entities won 263 licenses. In the 800 MHz auction, 38 of the 524 licenses won were won by small and very small entities.

34. *700 MHz Guard Band Licensees.* In the 700 MHz Guard Band Order, the Commission adopted a small business size standard for "small businesses" and "very small businesses" for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A "small business" as an entity that, together with its affiliates and controlling

principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a "very small business" is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. An auction of 52 Major Economic Area (MEA) licenses commenced on September 6, 2000, and closed on September 21, 2000. Of the 104 licenses auctioned, 96 licenses were sold to nine bidders. Five of these bidders were small businesses that won a total of 26 licenses. A second auction of 700 MHz Guard Band licenses commenced on February 13, 2001 and closed on February 21, 2001. All eight of the licenses auctioned were sold to three bidders. One of these bidders was a small business that won a total of two licenses.

35. *Rural Radiotelephone Service.* The Commission has not adopted a size standard for small businesses specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio System (BETRS). The Commission uses the SBA's small business size standard applicable to "Cellular and Other Wireless Telecommunications," i.e., an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that there are 1,000 or fewer small entity licensees in the Rural Radiotelephone Service that may be affected by the rules and policies adopted herein.

36. *Air-Ground Radiotelephone Service.* The Commission has not adopted a small business size standard specific to the Air-Ground Radiotelephone Service. The Commission will use SBA's small business size standard applicable to "Cellular and Other Wireless Telecommunications," i.e., an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and the Commission estimates that almost all of them qualify as small under the SBA small business size standard.

37. *Aviation and Marine Radio Services.* Small businesses in the aviation and marine radio services use a very high frequency (VHF) marine or aircraft radio and, as appropriate, an emergency position-indicating radio beacon (and/or radar) or an emergency locator transmitter. The Commission has not developed a small business size standard specifically applicable to these small businesses. For purposes of this analysis, the Commission uses the SBA small business size standard for the category "Cellular and Other Telecommunications," which is 1,500 or fewer employees. Most applicants for recreational licenses are individuals. Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. For purposes of the Commission's evaluations in this analysis, the Commission estimates that there are up to approximately 712,000 licensees that are small businesses (or individuals) under the SBA standard. In addition, between December 3, 1998 and December 14, 1998, the Commission held an auction of 42 VHF Public Coast licenses in the 157.1875–157.4500 MHz (ship transmit) and 161.775–162.0125 MHz (coast transmit) bands. For purposes of the auction, the Commission defined a "small" business as an entity that, together with controlling interests and affiliates, had average gross revenues for the preceding three years not to exceed $15 million dollars. In addition, a "very small" business is one that, together with controlling interests and affiliates, had average gross revenues for the preceding three years not to exceed $3 million dollars. There are approximately 10,672 licensees in the Marine Coast Service, and the Commission estimates that almost all of them qualify as "small" businesses under the above special small business size standards.

38. *Offshore Radiotelephone Service.* This service operates on several UHF television broadcast channels that are not used for television broadcasting in the coastal areas of states bordering the Gulf of Mexico. There are presently approximately 55 licensees in this service. The Commission is unable to estimate at this time the number of licensees that would qualify as small under the SBA's small business size standard for "Cellular and Other Wireless Telecommunications" services. Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees.

39. *39 GHz Service.* The Commission created a special small business size standard for 39 GHz licenses—an entity that has average gross revenues of $40 million or less in the three previous calendar years. An additional size standard for "very small business" is: an entity that, together with affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. The SBA has approved these small business size standards. The auction of the 2,173 39 GHz licenses began on April 12, 2000 and closed on May 8, 2000. The 18 bidders who claimed small business status won 849 licenses. Consequently, the Commission estimates that 18 or fewer 39 GHz licensees are small entities that may be affected by the rules and polices adopted herein.

40. *Wireless Cable Systems.* Wireless cable systems use 2 GHz band frequencies of the Broadband Radio Service ("BRS"), formerly Multipoint Distribution Service ("MDS"), and the Educational Broadband Service ("EBS"), formerly Instructional Television Fixed Service ("ITFS"), to transmit video programming and provide broadband services to residential subscribers. These services were originally designed for the delivery of multichannel video programming, similar to that of traditional cable systems, but over the past several years licensees have focused their operations instead on providing two-way high-speed Internet access services. The Commission estimates that the number of wireless cable subscribers is approximately 100,000, as of March 2005. Local Multipoint Distribution Service ("LMDS") is a fixed broadband point-to-multipoint microwave service that provides for two-way video telecommunications. As described below, the SBA small business size standard for the broad census category of Cable and Other Program Distribution, which consists of such entities generating $13.5 million or less in annual receipts, appears applicable to MDS, ITFS and LMDS. Other standards also apply, as described.

41. The Commission has defined small MDS (now BRS) and LMDS entities in the context of Commission license auctions. In the 1996 MDS auction, the Commission defined a small business as an entity that had annual average gross revenues of less than $40 million in the previous three calendar years. This definition of a small entity in the context of MDS auctions has been approved by the SBA. In the MDS auction, 67 bidders won 493 licenses. Of the 67 auction winners, 61 claimed status as a small business. At this time, the Commission estimates that of the 61 small business MDS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent MDS licensees that have gross revenues that are not more than $40 million and are thus considered small entities. MDS licensees and wireless cable operators that did not receive their licenses as a result of the MDS auction fall under the SBA small

business size standard for Cable and Other Program Distribution. Information available to the Commission indicates that there are approximately 850 of these licensees and operators that do not generate revenue in excess of $13.5 million annually. Therefore, the Commission estimates that there are approximately 850 small entity MDS (or BRS) providers, as defined by the SBA and the Commission's auction rules.

42. Educational institutions are included in this analysis as small entities; however, the Commission has not created a specific small business size standard for ITFS (now EBS). The Commission estimates that there are currently 2,032 ITFS (or EBS) licensees, and all but 100 of the licenses are held by educational institutions. Thus, the Commission estimates that at least 1,932 ITFS licensees are small entities.

43. In the 1998 and 1999 LMDS auctions, the Commission defined a small business as an entity that has annual average gross revenues of less than $40 million in the previous three calendar years. Moreover, the Commission added an additional classification for a "very small business," which was defined as an entity that had annual average gross revenues of less than $15 million in the previous three calendar years. These definitions of "small business" and "very small business" in the context of the LMDS auctions have been approved by the SBA. In the first LMDS auction, 104 bidders won 864 licenses. Of the 104 auction winners, 93 claimed status as small or very small businesses. In the LMDS re-auction, 40 bidders won 161 licenses. Based on this information, the Commission believes that the number of small LMDS licenses will include the 93 winning bidders in the first auction and the 40 winning bidders in the re-auction, for a total of 133 small entity LMDS providers as defined by the SBA and the Commission's auction rules.

44. *Local Multipoint Distribution Service.* Local Multipoint Distribution Service (LMDS) is a fixed broadband point-to-multipoint microwave service that provides for two-way video telecommunications. The auction of the 1,030 LMDS licenses began on February 18, 1998 and closed on March 25, 1998. The Commission established a small business size standard for LMDS licensees as an entity that has average gross revenues of less than $40 million in the three previous calendar years. An additional small business size standard for "very small business" was added as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. The SBA has approved these small business size standards in the context of LMDS auctions. There were 93 winning bidders that qualified as small entities in the LMDS auctions. A total of 93 small and very small business bidders won approximately 277 A Block licenses and 387 B Block licenses. On March 27, 1999, the Commission re-auctioned 161 licenses; there were 40 winning bidders. Based on this information, the Commission concludes that the number of small LMDS licenses consists of the 93 winning bidders in the first auction and the 40 winning bidders in the re-auction, for a total of 133 small entity LMDS providers.

45. *218–219 MHz Service.* The first auction of 218–219 MHz spectrum resulted in 170 entities winning licenses for 594 Metropolitan Statistical Area (MSA) licenses. Of the 594 licenses, 557 were won by entities qualifying as a small business. For that auction, the small business size standard was an entity that, together with its affiliates, has no more than a $6 million net worth and, after federal income taxes (excluding any carry over losses), has no more than $2 million in annual profits each year for the previous two years. In the *218–219 MHz Report and Order and Memorandum Opinion and Order* (64 FR 59656, Nov. 3, 2999), the Commission established a small business size standard for a "small business" as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and their affiliates, has average annual gross revenues not to exceed $15 million for the preceding three years. A "very small business" is defined as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and its affiliates, has average annual gross revenues not to exceed $3 million for the preceding three years. The Commission cannot estimate, however, the number of licenses that will be won by entities qualifying as small or very small businesses under the Commission's rules in future auctions of 218–219 MHz spectrum.

46. *24 GHz—Incumbent Licensees.* This analysis may affect incumbent licensees who were relocated to the 24 GHz band from the 18 GHz band and applicants who wish to provide services in the 24 GHz band. The applicable SBA small business size standard is that of "Cellular and Other Wireless Telecommunications" companies. This category provides that such a company is small if it employs no more than 1,500 persons. According to Census Bureau data for 1997, there were 977 firms in this category, total, that operated for the entire year. Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more. Thus, under this size standard, the great majority of firms can be considered small. These broader census data notwithstanding, the Commission believes that there are only two licensees in the 24 GHz band that were relocated from the 18 GHz band, Teligent and TRW, Inc. It is the Commission's understanding that Teligent and its related companies have less than 1,500 employees, though this may change in the future. TRW is not a small entity. Thus, only one incumbent licensee in the 24 GHz band is a small business entity.

47. *24 GHz—Future Licensees.* With respect to new applicants in the 24 GHz band, the small business size standard for "small business" is an entity that, together with controlling interests and affiliates, has average annual gross revenues for the three preceding years not in excess of $15 million. "Very small business" in the 24 GHz band is an entity that, together with controlling interests and affiliates, has average gross revenues not exceeding $3 million for the preceding three years. The SBA has approved these small business size standards. These size standards will apply to the future auction, if held.

2. Cable and OVS Operators

48. *Cable Television Distribution Services.* Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers; that category is defined as follows: "This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies." The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer employees. To gauge small business prevalence for these cable services the Commission must, however, use current census data that are based on the previous category of Cable and Other Program Distribution and its associated size standard; that size standard was: All such firms having $13.5 million or less in annual receipts. According to Census Bureau data for 2002, there were a total of 1,191 firms in this previous category that operated for the entire year. Of this total, 1,087 firms had annual receipts of under $10 million, and 43 firms had receipts of

$10 million or more but less than $25 million. Thus, the majority of these firms can be considered small.

49. *Cable Companies and Systems.* The Commission has also developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission's rules, a "small cable company" is one serving 400,000 or fewer subscribers, nationwide. Industry data indicate that, of 1,076 cable operators nationwide, all but eleven are small under this size standard. In addition, under the Commission's rules, a "small system" is a cable system serving 15,000 or fewer subscribers. Industry data indicate that, of 7,208 systems nationwide, 6,139 systems have under 10,000 subscribers, and an additional 379 systems have 10,000–19,999 subscribers. Thus, under this second size standard, most cable systems are small.

50. *Cable System Operators.* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000." The Commission has determined that an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Industry data indicate that, of 1,076 cable operators nationwide, all but ten are small under this size standard. The Commission notes that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, and therefore the Commission is unable to estimate more accurately the number of cable system operators that would qualify as small under this size standard.

51. *Open Video Systems (OVS).* In 1996, Congress established the open video system (OVS) framework, one of four statutorily recognized options for the provision of video programming services by local exchange carriers (LECs). The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Because OVS operators provide subscription services, OVS falls within the SBA small business size standard of Cable and Other Program Distribution Services, which consists of such entities having $13.5 million or less in annual receipts. The Commission has certified 25 OVS operators, with some now providing service. Broadband service providers (BSPs) are currently the only significant holders of OVS certifications or local OVS franchises. As of June, 2005, BSPs served approximately 1.4 million subscribers, representing 1.5 percent of all MVPD households. Affiliates of Residential Communications Network, Inc. (RCN), which serves about 371,000 subscribers as of June, 2005, is currently the largest BSP and 14th largest MVPD. RCN received approval to operate OVS systems in New York City, Boston, Washington, DC and other areas. The Commission does not have financial information regarding the entities authorized to provide OVS, some of which may not yet be operational. The Commission thus believes that at least some of the OVS operators may qualify as small entities.

3. Internet Service Providers

52. *Internet Service Providers.* The SBA has developed a small business size standard for Internet Service Providers (ISPs). ISPs "provide clients access to the Internet and generally provide related services such as web hosting, web page designing, and hardware or software consulting related to Internet connectivity." Under the SBA size standard, such a business is small if it has average annual receipts of $23 million or less. According to Census Bureau data for 2002, there were 2,529 firms in this category that operated for the entire year. Of these, 2,437 firms had annual receipts of under $10 million, and an additional 47 firms had receipts of between $10 million and $24,999,999. Consequently, the Commission estimates that the majority of these firms are small entities that may be affected by the Commission's action.

4. Other Internet-Related Entities

53. *Web Search Portals.* The Commission's action pertains to VoIP services, which could be provided by entities that provide other services such as email, online gaming, web browsing, video conferencing, instant messaging, and other, similar IP-enabled services. The Commission has not adopted a size standard for entities that create or provide these types of services or applications. However, the Census Bureau has identified firms that "operate web sites that use a search engine to generate and maintain extensive databases of Internet addresses and content in an easily searchable format. Web search portals often provide additional Internet services, such as e-mail, connections to other web sites, auctions, news, and other limited content, and serve as a home base for Internet users." The SBA has developed a small business size standard for this category; that size standard is $6.5 million or less in average annual receipts. According to Census Bureau data for 2002, there were 342 firms in this category that operated for the entire year. Of these, 303 had annual receipts of under $5 million, and an additional 15 firms had receipts of between $5 million and $9,999,999. Consequently, the Commission estimates that the majority of these firms are small entities that may be affected by the Commission's action.

54. *Data Processing, Hosting, and Related Services.* Entities in this category "primarily * * * provid[e] infrastructure for hosting or data processing services." The SBA has developed a small business size standard for this category; that size standard is $23 million or less in average annual receipts. According to Census Bureau data for 2002, there were 6,877 firms in this category that operated for the entire year. Of these, 6,418 had annual receipts of under $10 million, and an additional 251 firms had receipts of between $10 million and $24,999,999. Consequently, the Commission estimates that the majority of these firms are small entities that may be affected by the Commission's action.

55. *All Other Information Services.* "This industry comprises establishments primarily engaged in providing other information services (except new syndicates and libraries and archives)." The Commission's action pertains to VoIP services, which could be provided by entities that provide other services such as email, online gaming, web browsing, video conferencing, instant messaging, and other, similar IP-enabled services. The SBA has developed a small business size standard for this category; that size standard is $6.5 million or less in average annual receipts. According to Census Bureau data for 2002, there were 155 firms in this category that operated for the entire year. Of these, 138 had annual receipts of under $5 million, and an additional four firms had receipts of between $5 million and $9,999,999. Consequently, the Commission estimates that the majority of these firms are small entities that may be affected by the Commission's action.

56. *Internet Publishing and Broadcasting.* "This industry comprises establishments engaged in publishing and/or broadcasting content on the Internet exclusively. These establishments do not provide traditional (non-Internet) versions of the

content that they publish or broadcast." The SBA has developed a small business size standard for this census category; that size standard is 500 or fewer employees. According to Census Bureau data for 2002, there were 1,362 firms in this category that operated for the entire year. Of these, 1,351 had employment of 499 or fewer employees, and six firms had employment of between 500 and 999. Consequently, the Commission estimates that the majority of these firms small entities that may be affected by the Commission's action.

57. *Software Publishers.* These companies may design, develop or publish software and may provide other support services to software purchasers, such as providing documentation or assisting in installation. The companies may also design software to meet the needs of specific users. The SBA has developed a small business size standard of $23 million or less in average annual receipts for all of the following pertinent categories: Software Publishers, Custom Computer Programming Services, and Other Computer Related Services. For Software Publishers, Census Bureau data for 2002 indicate that there were 6,155 firms in the category that operated for the entire year. Of these, 7,633 had annual receipts of under $10 million, and an additional 403 firms had receipts of between $10 million and $24, 999,999. For providers of Custom Computer Programming Services, the Census Bureau data indicate that there were 32,269 firms that operated for the entire year. Of these, 31,416 had annual receipts of under $10 million, and an additional 565 firms had receipts of between $10 million and $24,999,999. For providers of Other Computer Related Services, the Census Bureau data indicate that there were 6,357 firms that operated for the entire year. Of these, 6,187 had annual receipts of under $10 million, and an additional 101 firms had receipts of between $10 million and $24,999,999. Consequently, the Commission estimates that the majority of the firms in each of these three categories are small entities that may be affected by the Commission's action.

5. Equipment Manufacturers

58. SBA small business size standards are given in terms of "firms." Census Bureau data concerning computer manufacturers, on the other hand, are given in terms of "establishments." The Commission notes that the number of "establishments" is a less helpful indicator of small business prevalence in this context than would be the number of "firms" or "companies," because the latter take into account the concept of common ownership or control. Any single physical location for an entity is an establishment, even though that location may be owned by a different establishment. Thus, the census numbers provided below may reflect inflated numbers of businesses in the given category, including the numbers of small businesses.

59. *Electronic Computer Manufacturing.* This category "comprises establishments primarily engaged in manufacturing and/or assembling electronic computers, such as mainframes, personal computers, workstations, laptops, and computer servers." The SBA has developed a small business size standard for this category of manufacturing; that size standard is 1,000 or fewer employees. According to Census Bureau data, there were 485 establishments in this category that operated with payroll during 2002. Of these, 476 had employment of under 1,000, and an additional four establishments had employment of 1,000 to 2,499. Consequently, the Commission estimates that the majority of these establishments are small entities.

60. *Computer Storage Device Manufacturing.* These establishments manufacture "computer storage devices that allow the storage and retrieval of data from a phase change, magnetic, optical, or magnetic/optical media." The SBA has developed a small business size standard for this category of manufacturing; that size standard is 1,000 or fewer employees. According to Census Bureau data, there were 170 establishments in this category that operated with payroll during 2002. Of these, 164 had employment of under 500, and five establishments had employment of 500 to 999. Consequently, the Commission estimates that the majority of these establishments are small entities

61. *Computer Terminal Manufacturing.* "Computer terminals are input/output devices that connect with a central computer for processing." The SBA has developed a small business size standard for this category of manufacturing; that size standard is 1,000 or fewer employees. According to Census Bureau data, there were 71 establishments in this category that operated with payroll during 2002, and all of the establishments had employment of under 1,000. Consequently, the Commission estimates that all of these establishments are small entities.

62. *Other Computer Peripheral Equipment Manufacturing.* Examples of peripheral equipment in this category include keyboards, mouse devices, monitors, and scanners. The SBA has developed a small business size standard for this category of manufacturing; that size standard is 1,000 or fewer employees. According to Census Bureau data, there were 860 establishments in this category that operated with payroll during 2002. Of these, 851 had employment of under 1,000, and an additional five establishments had employment of 1,000 to 2,499. Consequently, the Commission estimates that the majority of these establishments are small entities.

63. *Audio and Video Equipment Manufacturing.* These establishments manufacture "electronic audio and video equipment for home entertainment, motor vehicle, public address and musical instrument amplifications." The SBA has developed a small business size standard for this category of manufacturing; that size standard is 750 or fewer employees. According to Census Bureau data, there were 571 establishments in this category that operated with payroll during 2002. Of these, 560 had employment of under 500, and ten establishments had employment of 500 to 999. Consequently, the Commission estimates that the majority of these establishments are small entities.

64. *Electron Tube Manufacturing.* These establishments are "primarily engaged in manufacturing electron tubes and parts (except glass blanks)." The SBA has developed a small business size standard for this category of manufacturing; that size standard is 750 or fewer employees. According to Census Bureau data, there were 102 establishments in this category that operated with payroll during 2002. Of these, 97 had employment of under 500, and one establishment had employment of 500 to 999. Consequently, the Commission estimates that the majority of these establishments are small entities.

65. *Bare Printed Circuit Board Manufacturing.* These establishments are "primarily engaged in manufacturing bare (i.e., rigid or flexible) printed circuit boards without mounted electronic components." The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees. According to Census Bureau data, there were 936 establishments in this category that operated with payroll during 2002. Of these, 922 had employment of under 500, and 12 establishments had employment of 500 to 999.

Consequently, the Commission estimates that the majority of these establishments are small entities.

66. *Semiconductor and Related Device Manufacturing.* Examples of manufactured devices in this category include "integrated circuits, memory chips, microprocessors, diodes, transistors, solar cells and other optoelectronic devices." The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees. According to Census Bureau data, there were 1,032 establishments in this category that operated with payroll during 2002. Of these, 950 had employment of under 500, and 42 establishments had employment of 500 to 999. Consequently, the Commission estimates that the majority of these establishments are small entities.

67. *Electronic Capacitor Manufacturing.* These establishments manufacture "electronic fixed and variable capacitors and condensers." The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees. According to Census Bureau data, there were 104 establishments in this category that operated with payroll during 2002. Of these, 101 had employment of under 500, and two establishments had employment of 500 to 999. Consequently, the Commission estimates that the majority of these establishments are small entities.

68. *Electronic Resistor Manufacturing.* These establishments manufacture "electronic resistors, such as fixed and variable resistors, resistor networks, thermistors, and varistors." The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees. According to Census Bureau data, there were 79 establishments in this category that operated with payroll during 2002. All of these establishments had employment of under 500. Consequently, the Commission estimates that all of these establishments are small entities.

69. *Electronic Coil, Transformer, and Other Inductor Manufacturing.* These establishments manufacture "electronic inductors, such as coils and transformers." The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees. According to Census Bureau data, there were 365 establishments in this category that operated with payroll during 2002. All of these establishments had employment of under 500. Consequently, the Commission estimates that all of these establishments are small entities.

70. *Electronic Connector Manufacturing.* These establishments manufacture "electronic connectors, such as coaxial, cylindrical, rack and panel, pin and sleeve, printed circuit and fiber optic." The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees. According to Census Bureau data, there were 321 establishments in this category that operated with payroll during 2002. Of these, 315 had employment of under 500, and three establishments had employment of 500 to 999. Consequently, the Commission estimates that the majority of these establishments are small entities.

71. *Printed Circuit Assembly (Electronic Assembly) Manufacturing.* These are establishments "primarily engaged in loading components onto printed circuit boards or who manufacture and ship loaded printed circuit boards." The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees. According to Census Bureau data, there were 868 establishments in this category that operated with payroll during 2002. Of these, 839 had employment of under 500, and 18 establishments had employment of 500 to 999. Consequently, the Commission estimates that the majority of these establishments are small entities.

72. *Other Electronic Component Manufacturing.* The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees. According to Census Bureau data, there were 1,627 establishments in this category that operated with payroll during 2002. Of these, 1,616 had employment of under 500, and eight establishments had employment of 500 to 999. Consequently, the Commission estimates that the majority of these establishments are small entities.

73. *Fiber Optic Cable Manufacturing.* These establishments manufacture "insulated fiber-optic cable from purchased fiber-optic strand." The SBA has developed a small business size standard for this category of manufacturing; that size standard is 1,000 or fewer employees. According to Census Bureau data, there were 96 establishments in this category that operated with payroll during 2002. Of these, 95 had employment of under 1,000, and one establishment had employment of 1,000 to 2,499. Consequently, the Commission estimates that the majority or all of these establishments are small entities.

74. *Other Communication and Energy Wire Manufacturing.* These establishments manufacture "insulated wire and cable of nonferrous metals from purchased wire." The SBA has developed a small business size standard for this category of manufacturing; that size standard is 1,000 or fewer employees. According to Census Bureau data, there were 356 establishments in this category that operated with payroll during 2002. Of these, 353 had employment of under 1,000, and three establishments had employment of 1,000 to 2,499. Consequently, the Commission estimates that the majority or all of these establishments are small entities.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

75. In this Report and Order, the Commission is requiring telecommunications carriers and providers of interconnected VoIP service to collect certain information and take other actions to comply with LNP and other numbering administration obligations. Specifically, the Commission is requiring both traditional telecommunications carriers as well as interconnected VoIP providers and their numbering partners to facilitate a customer's porting request to or from an interconnected VoIP provider. This means, for example, that interconnected VoIP providers have an affirmative legal obligation to take all steps necessary to initiate or allow a port-in or port-out itself or through its numbering partner on behalf of the interconnected VoIP customer, subject to a valid port request, without unreasonable delay or unreasonable procedures that have the effect of delaying or denying porting of the number. The Commission also prohibits interconnected VoIP providers and their numbering partners from entering into agreements that would prohibit or unreasonably delay an interconnected VoIP service end user from porting between interconnected VoIP providers, or to or from a wireline carrier or a covered CMRS provider. Further, the Commission expects interconnected VoIP providers to fully inform their customers about limitations on porting between providers, particularly limitations that result from the portable nature of, and use of non-geographic numbers by, certain interconnected VoIP services.

76. The Commission is also requiring interconnected VoIP providers to contribute to meet shared numbering administration and LNP costs. The reporting requirements for determining interconnected VoIP providers' contribution to the shared cost of numbering administration and LNP require interconnected VoIP providers to file an annual FCC Form 499–A. The Commission requires interconnected VoIP providers to include in their annual FCC Form 499–A filing historical revenue information for the relevant year, including all information necessary to allocate revenues across the seven LNPA regions. To alleviate the burdens of attributing costs among the seven LNPA regions, the Commission allows these providers to use a proxy based on the percentage of subscribers a provider serves in a particular region for reaching an estimate for allocating their end-user revenues to the appropriate regional LNPA.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

77. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include (among others) the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

78. *The IP-Enabled Services Notice* sought comment on whether numbering obligations should be extended to IP-enabled services, and invited comment on the effect various proposals would have on small entities, as well as the effect alternative rules would have on these entities. However, the Commission must assess the interests of small businesses in light of the overriding public interest in ensuring that all consumers benefit from local number portability. In the Report and Order, the Commission found that allowing customers of interconnected VoIP services to receive the benefits of LNP is fundamentally important for the protection of consumers and benefits not only customers, but the interconnected VoIP providers themselves. Specifically, the Commission found that the ability of end users to retain their NANP telephone numbers when changing service providers gives customers flexibility in the quality, price, and variety of services they can choose to purchase. Allowing customers to respond to price and service changes without changing their telephone numbers will enhance competition, a fundamental goal of section 251 of the Act. In addition, the Commission found that failure to extend LNP obligations to interconnected VoIP providers and their numbering partners would thwart the effective and efficient administration of the Commission's number administration responsibilities under section 251 of the Act.

79. The Commission concluded that because interconnected VoIP providers, including small businesses, benefit from LNP, all interconnected VoIP providers, including small businesses, should contribute to meet shared LNP costs. However, to alleviate costs involved in the attribution systems for all of their end-user services, when filing FCC Form 499–A, the Commission allowed interconnected VoIP providers, including small businesses, to use a proxy based on the percentage of subscribers a provider serves in a particular region for allocating their end-user revenues to the appropriate regional LNPA.

80. Report to Congress: The Commission will send a copy of the Order, including this FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act. A copy of the Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

Final Regulatory Flexibility Analysis, CC Docket No. 95–116 (Intermodal Local Number Portability)

1. As required by the Regulatory Flexibility Act, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was published for the *Intermodal Number Portability Order* (70 FR 41655, July 20, 2005). The Commission sought written public comment on the IRFA. The Commission received comments specifically directed toward the IRFA, which are discussed below. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Rules

2. Section 251(b) of the Communications Act requires local exchange carriers to provide number portability, to the extent technically feasible, in accordance with the requirements prescribed by the Commission. In the *Intermodal Number Portability Order* (68 FR 68831, Dec. 10, 2003), the Commission found that porting from a wireline carrier to a wireless carrier is required where the requesting wireless carrier's coverage area overlaps the geographic location in which the customer's wireline number is provisioned, provided that the porting-in carrier maintains the number's original rate center designation following the port. The United States Court of Appeals for the District of Columbia remanded the *Intermodal Number Portability Order* to the Commission to prepare the required FRFA on the impact of the order on carriers that qualify as small entities under the RFA. After considering information received from commenters in response to the IRFA, the Commission concludes that wireline carriers qualifying as small entities under the RFA will be required to provide wireline-to-wireless intermodal porting where the requesting wireless carrier's coverage area overlaps the geographic location in which the customer's wireline number is provisioned, provided that the porting-in carrier maintains the number's original rate center designation following the port.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

3. In this section, the Commission responds to comments filed in response to the IRFA. To the extent the Commission received comments raising general small business concerns during this proceeding, those comments are discussed throughout the *Intermodal Number Portability Order*.

4. As an initial matter, the Commission rejects arguments that carriers that qualify as "small entities" should not have to comply with the intermodal porting requirements until the Commission addresses issues pertaining to rating and routing that are pending in the intercarrier compensation proceeding. The issues that have been raised in this proceeding with respect to transporting calls to ported numbers are also before the Commission in the context of all numbers (without distinguishing between ported or non-ported numbers) in the intercarrier compensation proceeding. Further, as the Commission found in the *Intermodal Number Portability Order*, the issue of transport costs associated with calls to ported numbers is outside the scope of this proceeding and not relevant to the application of the LNP obligations under the Act.

5. The Commission also rejects recommendations that the Commission

create a partial or blanket exemption for small carriers from the wireline-to-wireless intermodal porting requirements based on the high costs of implementation. The Commission finds that small carriers have not demonstrated such significant costs associated with implementation of LNP to warrant an exemption. Several small carriers claim that they may face a variety of costs associated with wireline-to-wireless intermodal porting, which would be excessive in light of their small customer bases. However, other commenters point out that the cost information these carriers present shows a large range of cost estimates, and in fact, even when the estimates are taken at face value, they indicate that the cost of wireline-to-wireless intermodal LNP does not impose a significant economic burden on small entities. In addition, the Commission is not persuaded based on this record that the costs of implementing LNP are as large as the commenters suggest, given the scant support they provide for their estimates and their failure to demonstrate that all the estimated costs are of the sort that the Commission would allow to be attributed to the LNP end-user charge. For example, some commenters cite their estimated costs associated with transporting calls to ported numbers. However, as discussed above, the Commission previously declined to consider these as LNP-related costs, rather than costs of interconnection more generally, and the commenters here do not demonstrate that the Commission should reverse that conclusion.

6. Further, in response to small carrier concerns about LNP implementation costs, the Commission notes that wireline carriers generally only are required to provide LNP upon receipt of a specific request for the provision of LNP by another carrier. Thus, many of the small carriers may not be required to implement LNP immediately because there is no request to do so. Indeed, as the Commission found in the *First Number Portability Order on Reconsideration* (62 FR 18280, Apr. 15, 1997), these rights effectively constitute steps that minimize the economic impact of LNP on small entities. Further, carriers have the ability to petition the Commission for a waiver of their obligation to port numbers to wireless carriers if they can provide substantial, credible evidence that there are special circumstances that warrant a departure from existing rules. In addition, under section 251(f)(2), a LEC with fewer than two percent of the nation's subscriber lines installed in the aggregate nationwide may petition the appropriate state commission for suspension or modification of the requirements of section 251(b). The Commission finds these existing safeguards further address commenters' concerns regarding the costs on small entities to implement LNP.

C. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

7. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under section 3 of the Small Business Act. Under the Small Business Act, a "small business concern" is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

8. *Wired Telecommunications Carriers.* The SBA has developed a small business size standard for wireline firms within the broad economic census category, "Wired Telecommunications Carriers." Under this category, the SBA deems a wireline business to be small if it has 1,500 or fewer employees. Census Bureau data for 2002 show that there were 2,432 firms in this category that operated for the entire year. Of this total, 2,395 firms had employment of 999 or fewer employees, and 37 firms had employment of 1,000 employees or more. Thus, under this category and associated small business size standard, the majority of firms can be considered small.

9. *Incumbent Local Exchange Carriers.* The Commission has included small incumbent local exchange carriers (LECs) in this RFA analysis. Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category of Wired Telecommunications Carriers. As noted above, a "small business" under the RFA is one that, inter alia, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. The Commission has therefore included small incumbent LECs in this RFA analysis, although the Commission emphasizes that this RFA action has no effect on the Commission's analyses and determinations in other, non-RFA contexts. According to Commission data, 1,307 carriers have reported that they are engaged in the provision of incumbent local exchange services. Of these 1,307 carriers, an estimated 1,019 have 1,500 or fewer employees and 288 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small entities.

10. *Competitive Local Exchange Carriers, Competitive Access Providers (CAPs), "Shared-Tenant Service Providers," and "Other Local Service Providers."* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 859 carriers have reported that they are engaged in the provision of either competitive access provider services or competitive LEC services. Of these 859 carriers, an estimated 741 have 1,500 or fewer employees and 118 have more than 1,500 employees. In addition, 16 carriers have reported that they are "Shared-Tenant Service Providers," and all 16 are estimated to have 1,500 or fewer employees. In addition, 44 carriers have reported that they are "Other Local Service Providers." Of the 44, an estimated 43 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, "Shared-Tenant Service Providers," and "Other Local Service Providers" are small entities.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

11. There are no significant reporting, recordkeeping or other compliance requirements imposed on small entities by the *Intermodal Number Portability Order.*

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

12. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

13. The Commission invited comment on the intermodal porting rules with respect to their application to small entities in light of the RFA requirements. In accordance with the requirements of the RFA, the Commission has considered the potential economic impact of the intermodal porting rules on small entities and conclude that wireline carriers qualifying as small entities under the RFA will be required to provide wireline-to-wireless intermodal porting where the requesting wireless carrier's coverage area overlaps the geographic location in which the customer's wireline number is provisioned, provided that the porting-in carrier maintains the number's original rate center designation following the port. The Commission finds that this approach best balances the impact of the costs that may be associated with the wireline-to-wireless intermodal porting rules for small carriers and the public interest benefits of those requirements.

14. Specifically, in the *Intermodal Number Portability Order*, the Commission considered limiting the scope of intermodal porting based on the small carrier concern that requiring porting to a wireless carrier that does not have a physical point of interconnection or numbering resources in the rate center associated with the ported number would give wireless carriers an unfair competitive advantage. The Commission found, however, that these considerations did not justify denying wireline consumers the benefit of being able to port their numbers to wireless carriers. In addition, the order noted that each type of service offers its own advantages and disadvantage and that consumers would consider these attributes in determining whether or not to port their numbers. The order also considered the concern expressed by small carriers that requiring porting beyond wireline rate center boundaries would lead to increased transport costs. The Commission concluded that such concerns were outside the scope of the number portability proceeding and noted that the rating and routing issues raised by the rural wireline carriers were also implicated in the context of non-ported numbers and were before the Commission in other proceedings.

15. Further, if there is a particular case where a carrier faces extraordinary costs, other regulatory avenues for relief are available. Specifically, a carrier may petition the Commission for additional time or waiver of the intermodal porting requirements if it can provide substantial, credible evidence that there are special circumstances that warrant departure from existing rules. In addition, under section 251(f)(2), a LEC with fewer than two percent of the nation's subscriber lines installed in the aggregate nationwide may petition the appropriate state commission for suspension or modification of the requirements of section 251(b). Although some commenters have complained about the time and expense associated with the section 251(f)(2) mechanism, several others have indicated that the 251(f)(2) mechanism has been an effective method of addressing the potential burdens on small carriers. Further, in response to small carriers' concerns about LNP implementation costs, the Commission notes that wireline carriers generally only are required to provide LNP upon receipt of a specific request for the provision of LNP by another carrier. Thus, many of the small carriers may not be required to implement LNP immediately because there is no request to do so. Indeed, as the Commission found in the *First Number Portability Order on Reconsideration*, these rights effectively constitute steps that minimize the economic impact of LNP on small entities. The Commission finds these existing safeguards further address commenters' concerns regarding the costs on small entities to implement LNP.

16. While the Commission recognizes that wireline carriers will still incur implementation and recurrent costs, the Commission concludes that the benefits to the public of requiring wireline-to-wireless intermodal LNP outweigh the economic burden imposed on these carriers. Creating a partial or blanket exemption from the wireline-to-wireless intermodal porting requirements for small entities would harm consumers in small and rural areas across the country by preventing them from being able to port on a permanent basis. It might also discourage further growth of competition between wireless and wireline carriers in smaller markets across the country. The Commission continues to believe that the intermodal LNP requirements are important for promoting competition between the wireless and wireline industries and generating innovative service offerings and lower prices for consumers. Wireless number porting activity since the advent of porting has been significant and evidence shows that the implementation of LNP has, in fact, yielded important benefits for consumers, such as improved customer retention efforts by carriers. By reinstating, immediately, the wireline-to-wireless intermodal porting requirement, this approach ensures that more consumers in small and rural communities will be able to port and experience the competitive benefits of LNP.

F. Report to Congress

17. The Commission will send a copy of this FRFA in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act. A copy of the FRFA (or a summary thereof) will also be published in the **Federal Register**.

Final Paperwork Reduction Act of 1995 Analysis

This document does not contain new or modified information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Congressional Review Act

The Commission will send a copy of this Report and Order on Remand 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).

Ordering Clauses

29. Accordingly, *it is ordered* that pursuant to sections 1, 4(i), 4(j), 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)–(j), 251, 303(r), the Report and Order in WC Docket No. 04–36 and CC Docket Nos. 95–116 and 99–200 *is adopted*, and that Part 52 of the

Commission's Rules, 47 CFR parts 52, is amended as set forth in Appendix B. The Report and Order shall become effective 30 days after publication in the **Federal Register**.

30. *It is further ordered* that pursuant to section 1, 4(i), 4(j), 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)-(j), 251, 303(r), the Order on Remand in CC Docket No. 95–116 is adopted. The Order on Remand shall become effective 30 days after publication in the **Federal Register**.

31. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking, including the two Final Regulatory Flexibility Analyses and the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 52

Communications common carriers, telecommunications, telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends Part 52 of Title 47 of the Code of Federal Regulations as follows:

PART 52—NUMBERING

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

Authority: Secs. 1, 2, 4, 5, 48 Stat. 1066, as amended; 47 U.S.C. 151, 152, 154 and 155 unless otherwise noted. Interpret or apply secs. 3, 4, 201–05, 207–09, 218, 225–27, 251–52, 271 and 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 153, 154, 201–05, 207–09, 218, 225–27, 251–52, 271 and 332 unless otherwise noted.

■ 2. Section 52.12(a)(1)(i) introductory text is revised to read as follows:

§ 52.12 North American Numbering Plan Administrator and B&C Agent.

* * * * *

(a)(1) * * *

(i) The NANPA and B&C Agent may not be an affiliate of any telecommunications service provider(s) as defined in the Telecommunications Act of 1996, or an affiliate of any interconnected VoIP provider as that term is defined in § 52.21(h). "Affiliate" is a person who controls, is controlled by, or is under the direct or indirect common control with another person. A person shall be deemed to control another if such person possesses, directly or indirectly—

* * * * *

■ 3. Section 52.16 is amended by adding paragraph (g) to read as follows:

§ 52.16 Billing and Collection Agent.

* * * * *

(g) For the purposes of this rule, the term "carrier(s)" shall include interconnected VoIP providers as that term is defined in § 52.21(h).

■ 4. Section 52.17 is amended by adding paragraph (c) to read as follows:

§ 52.17 Costs of number administration.

* * * * *

(c) For the purposes of this section, the term "telecommunications carrier" or "carrier" shall include interconnected VoIP providers as that term is defined in § 52.21(h).

■ 5. Section 52.21 is amended by redesignating paragraphs (h) through (r) as paragraphs (i) through (s), and by adding new paragraph (h) to read as follows:

§ 52.21 Definitions.

* * * * *

(h) The term "interconnected VoIP provider" is an entity that provides interconnected VoIP service as that term is defined in 47 CFR 9.3.

* * * * *

■ 6. Section 52.23 is amended by adding paragraph (h) to read as follows:

§ 52.23 Deployment of long-term database methods for number portability by LECs.

* * * * *

(h)(1) Porting from a wireline carrier to a wireless carrier is required where the requesting wireless carrier's "coverage area," as defined in paragraph (h)(2) of this section, overlaps the geographic location in which the customer's wireline number is provisioned, provided that the porting-in carrier maintains the number's original rate center designation following the port.

(2) The wireless "coverage area" is defined as the area in which wireless service can be received from the wireless carrier.

■ 7. Section 52.32 is amended by adding paragraph (e) to read as follows:

§ 52.32 Allocation of the shared costs of long-term number portability.

* * * * *

(e) For the purposes of this section, the term "telecommunications carrier" shall include interconnected VoIP providers as that term is defined in § 52.21(h); and "telecommunications service" shall include "interconnected VoIP service" as that term is defined in 47 CFR 9.3.

■ 8. Section 52.33(b) is revised to read as follows:

§ 52.33 Recovery of carrier-specific costs directly related to providing long-term number portability.

* * * * *

(b) All interconnected VoIP providers and telecommunications carriers other than incumbent local exchange carriers may recover their number portability costs in any manner consistent with applicable state and federal laws and regulations.

■ 9. Section 52.34 is added to read as follows:

§ 52.34 Obligations regarding local number porting to and from interconnected VoIP providers.

(a) An interconnected VoIP provider must facilitate an end-user customer's valid number portability request, as it is defined in this subpart, either to or from a telecommunications carrier or another interconnected VoIP provider. "Facilitate" is defined as the interconnected VoIP providers' affirmative legal obligation to take all steps necessary to initiate or allow a port-in or port-out itself or through the telecommunications carriers, if any, that it relies on to obtain numbering resources, subject to a valid port request, without unreasonable delay or unreasonable procedures that have the effect of delaying or denying porting of the NANP-based telephone number.

(b) An interconnected VoIP provider may not enter into any agreement that would prohibit an end-user customer from porting between interconnected VoIP providers, or to or from a telecommunications carrier.

[FR Doc. E8–3130 Filed 2–20–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket Nos. 06–121; 02–277; 01–235; 01–317; 00–244; 04–228; 99–360; FCC 07–216]

2006 Quadrennial Regulatory Review—Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document adopts rule changes that presumptively permit newspaper/broadcast cross ownership only in the largest markets and only where there exists competition and numerous voices. The revised rule balances the need to support the availability and sustainability of local news while not significantly increasing local concentration or harming diversity. The Commission generally retains the other broadcast ownership rules currently in effect.

DATES: Effective March 24, 2008 except for 73.3555(d) which contains information collection requirements that have not been approved by OMB. The FCC will publish a document announcing the effective date of that section.

FOR FURTHER INFORMATION CONTACT: Royce Sherlock, (202) 418–2330; Mania Baghdadi, (202) 418–2330.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's *Report and Order and Order on Reconsideration* in MB Docket Nos. 06–121; 02–277; 01–235; 01–317; 00–244; 04–228; 99–360, FCC 07–216, adopted December 18, 2007, and released February 4, 2008. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY–A257, Washington, DC 20554. These documents will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs*). The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording and Braille), send an e-mail to *fcc504@fcc.gov* or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice)(202) 418–0432 (TTY).

Summary of the Report and Order

1. This *Order* was adopted to address the issues raised by the opinion of the United States Court of Appeals for the Third Circuit in *Prometheus Radio Project* v. *FCC,* and pursuant to Section 202(h) of the Telecommunications Act of 1996 ("1996 Act"), which requires the Commission to review its ownership rules (except the national television ownership limit) every four years and "determine whether any of such rules are necessary in the public interest as the result of competition."

2. The *Report and Order* eliminates the 32-year old prohibition on newspaper-broadcast cross-ownership. The *Report and Order* revises the Commission's rules to presumptively permit cross ownership only in the largest markets and only where there exists competition and numerous voices. Under the new approach, the Commission presumes a proposed newspaper-broadcast transaction is not inconsistent with the public interest if it meets the following test: (1) The market at issue is one of the 20 largest Nielsen Designated Market Areas ("DMAs"); (2) the transaction involves the combination of only one major daily newspaper and only one television or radio station; (3) if the transaction involves a television station, at least eight independently owned and operating major media voices (defined to include major newspapers and full-power TV stations) would remain in the DMA following the transaction; and (4) if the transaction involves a television station, that station is not among the top four ranked stations in the DMA.

3. All other proposed newspaper-broadcast transactions generally would continue to be presumed not to be in the public interest. The *Report and Order* identifies two limited circumstances in which this negative presumption would be reversed:

- First, the negative presumption will be reversed if the newspaper-broadcast combination involves a "failing" or "failed" newspaper or station. The *Report and Order* adapts the Commission's longstanding approach concerning failed or failing station waivers of the local television ownership limit to newspaper-broadcast combinations, using the same criteria to define whether an outlet is "failing" or has "failed" in the newspaper-broadcast context. To be deemed "failed," the newspaper or broadcast station would have to have ceased publication or gone dark at least four months before the filing of an application, or be in bankruptcy proceedings. To be treated as "failing," the applicant must show that (a) the broadcast station has had an all-day audience share of 4 percent or lower, (b) the newspaper or broadcast station has had a negative cash flow for the previous three years. and (c) the combination will produce public interest benefits. In addition, the applicant must show that the in-market buyer is the only reasonably available candidate willing and able to acquire and operate the newspaper or station.
- Second, the negative presumption against a newspaper-broadcast combination will be reversed when a proposed transaction results in a new source of local news in a market—to be specific, when a combination would initiate at least seven hours of new local news programming per week on a broadcast station that previously has not aired local newscasts.

4. Under the new rule, parties seeking to overcome a negative presumption will face high hurdles. In particular, applicants attempting to overcome a negative presumption about a major newspaper-television combination will need to demonstrate by clear and convincing evidence that post-merger, the merged entity will increase the diversity of independent news outlets (e.g., separate editorial and news coverage decisions) and increase competition among independent news sources in the relevant market. The Commission will use the following factors to inform its evaluation: (1) Whether the combined entity will significantly increase the amount of local news in the market; (2) whether the newspaper and the broadcast outlets each will continue to employ its own staff and each will exercise its own independent news judgment; (3) the level of concentration in the DMA; and (4) the financial condition of the newspaper or broadcast station, and if the newspaper or broadcast station is in financial distress, the proposed owner's commitment to invest significantly in newsroom operations.

5. This approach will permit the Commission to balance the needs of the public for media and viewpoint diversity with its concerns about the financial health and viability of traditional media outlets and to do so in the context of each particular transaction.

6. In reaching these decisions, the item reaffirms the Commission's previous decision to eliminate the blanket ban on newspaper-broadcast cross-ownership and replace it with a presumption that waivers of the ban are in the public interest in certain limited circumstances. The *Report and Order* observes that the *Prometheus* court agreed that the ban is not necessary to promote competition, diversity, or localism. It concludes that the record contains ample evidence that marketplace conditions have indeed changed since 1975, when the ban was established, and thus justifies a recalibration at this time. In particular, it cites evidence that the largest markets contain a robust number of diverse media sources and the diversity of viewpoints would not be jeopardized by certain newspaper-broadcast combinations, and that newspaper-broadcast combinations can create synergies that result in more news

coverage for consumers. Because the modified rule generally presumes that waivers are in the public interest only for combinations of a single broadcast outlet and a daily newspaper in the largest markets, the item reasons that the modified rule will ensure that such synergies can be captured without impairing diversity.

7. The item explains that newspaper-broadcast cross-ownership in the 20 largest DMAs in the country generally raises fewer diversity concerns because such media markets are more vibrant and have more media outlets. The Commission found notable differences between the top 20 markets and all other DMAs, both in terms of voices and in terms of television households.

8. The item defines major media voices as full-power commercial and noncommercial television stations and major newspapers. It acknowledges that other types of outlets contribute to diversity, but concludes that other voices are not major sources of local news or information and, therefore, should not be included as major media voices in determining whether eight independently owned voices will remain if a combination is allowed. It explains that the Commission selected the number eight for the major media voice count because it is comfortable that at least eight major media voices in the top-20 markets—along with the other unquantified media outlets that are present in those markets—will assure that these markets continue to enjoy an adequate diversity of local news and information sources. The item further explains that the top-four prohibition is included because the Commission considers daily newspapers and the top-four stations to be the most influential providers of local news in markets. Thus, such combinations are likely to cause a greater harm to diversity in a market.

9. With regard to non-top 20 markets, the item establishes a general presumption that it is inconsistent with the public interest for an entity to own, operate or control a combination in such markets in order to protect competition and media diversity, as these markets cannot match the robustness in media and outlet diversity found in the top 20 markets. Nevertheless, the item recognizes the need to consider factors particular to each market and proposed transaction. Thus, applicants in markets below DMA 20 may overcome the presumption that a merger would not be in the public interest by showing countervailing benefits of the proposed transaction. While the Commission expects such cases to be rare, it acknowledges that a particular market may have unique attributes or that the proposed transaction may present unique advantages. The item explains that the two situations in which the negative presumption may be reversed—when a newspaper or station has failed or is failing and when a proposed combination results in a new source of a significant amount of local news in a market—are grounded in the Commission's longstanding application of a failed/failing station model in evaluating local TV waiver criteria for over 25 years, as well as its recognition of the unique and particular importance of local news and public affairs programming.

10. The Order does not require divestiture of the combinations grandfathered in the Commission's 1975 decision implementing a ban on common ownership of a daily newspaper and a full-power broadcast station; rather these combinations remain grandfathered. Similarly, all permanent waivers from the prior rule that previously have been granted will continue in effect under the new rule.

11. The Order grants five permanent waivers of the rule for the following: Gannett's combination in Phoenix; Media General's combinations in Myrtle Beach-Florence, South Carolina; Columbus, Georgia; Panama City, Florida, and the Tri-Cities, Tennessee/Virginia DMA.

12. Where a pending waiver request involves an existing combination consisting of more than one newspaper and/or more than one broadcast station or an entity has been granted a waiver to hold such a combination pending the completion of this rulemaking, we will afford the licensee 90 days after the effective date of this order to either amend its waiver/renewal request or file a request for permanent waiver. Such requests will be examined on a case-by-case basis. Pending waiver requests and renewal applications will be held in abeyance until the Commission receives an appropriate amendment. Current temporary waivers that have been granted pending the completion of the rulemaking proceeding will be temporarily extended pending our action on requests for permanent waivers. In order to ensure adequate public notice of pending waiver requests, the Order indicates that the Commission will flag applications for proposed newspaper/broadcast combinations in its public notices as seeking waiver of the newspaper/broadcast cross-ownership rule pursuant to Section 73.3555(d) of the Commission's rules.

13. With respect to the remaining broadcast ownership rules under review, including the local television ownership rule, the radio-tv cross-ownership rule, the local radio ownership rule, and the dual network rule, the Commission determined that any further relaxation of ownership rules in the radio or television broadcast markets should not be allowed and retains the media ownership rules that are currently in effect. Thus, it retains the changes to the local radio ownership rule adopted in the 2002 Biennial Review Order, including use of Arbitron markets to define the relevant radio market and including noncommercial stations in determining the size of the radio market. The Order also reaffirms the decision in the 2002 Biennial Review Order to attribute certain same-market radio Joint Sales Agreements. These rules reaffirm the Commission's core competition and diversity goals, while harmonizing these goals with marketplace realities. Finally, the Order concludes that the Commission is foreclosed from addressing the issue of the UHF discount in this proceeding by the 2004 Consolidated Appropriations Act. Accordingly, these rules remain necessary in the public interest as the result of competition.

14. The *Report and Order* also reinstates the failed station solicitation rule, which required an applicant for a waiver of the local TV ownership rule to provide notice of the sale of a failed, failing or unbuilt station to potential out-of-market buyers before it could sell that station to an in-market buyer. The Order states that it is necessary to ensure that out-of-market buyers, including qualified minority broadcasters, have notice of, and an opportunity to bid for, a station before it is combined with an in-market station. A waiver of the rule should only be permitted when no out-of-market buyer is willing to purchase the station at a reasonable price.

Report and Order

Final Paperwork Reduction Act of 1995 Analysis

15. This *Report and Order* contains both new and modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public

Law 107–198, *see* 44 U.S.C. 3506(c)(4), we have considered how the Commission might "further reduce the information collection burden for small business concerns with fewer than 25 employees." We find that the modified requirements must apply fully to small entities (as well as to others) to protect consumers and further other goals, as described in the *Order*.

16. In this present document, we have assessed the effects of the Commission's broadcast ownership rules, as amended, and find that the effect on businesses with fewer than 25 employees will be minimal.

Final Regulatory Flexibility Analysis

17. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rulemaking (*NPRM*) in MB Docket No. 02–277. The Commission sought written public comment on the proposals in the *NPRM* including comment on the IRFA (FCC 02–249, 67 FR 65751, October 28, 2002). The Commission also prepared a Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA) of the possible significant economic impact on small entities of the proposals in the *Further Notice of Proposed Rulemaking (FNPRM)* (FCC 06–93, 71 FR 45511, August 9, 2006; 71 FR 54253, September 14, 2006). The Commission sought written public comment on the *FNPRM*, including comment on the Supplemental IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Report and Order and Order on Reconsideration (Order)

18. The *Order* concludes the Commission's 2006 Quadrennial Review of the broadcast ownership rules. This review encompasses the newspaper/broadcast cross-ownership rule, the radio-television cross-ownership rule, the local television multiple ownership rule, the local radio ownership rule, and the dual network rule. The rules are reviewed under Section 202(h) of the Telecommunications Act of 1996 ("1996 Act"), which requires the Commission to review its ownership rules (except the national television ownership limit) every four years and "determine whether any of such rules are necessary in the public interest as the result of competition." Under Section 202(h), the Commission "shall repeal or modify any regulation it determines to be no longer in the public interest." The Commission modifies the newspaper/broadcast cross-ownership rule and retains the other broadcast ownership rules currently in effect.

19. The Commission's approach in this *Order* is a cautious approach that balances the concerns of many commenters that it not permit excessive consolidation, with concerns of other commenters that it afford some relief to assure continued diversity and investment in local news programming by a modest loosening of the 32 year-old prohibition on newspaper/broadcast cross-ownership. The Commission believes that the decisions it adopts in the *Order* serve our public interest goals, appropriately take account of the current media marketplace, and comply with our statutory responsibilities.

B. Legal Basis

20. This *Order* is adopted pursuant to Sections 1, 2(a), 4(i), 303, 307, 309, and 310 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309, and 310, and Section 202(h) of the Telecommunications Act of 1996.

C. Summary of Significant Issues Raised by Public Comments in Response to the IRFA and the Supplemental IRFA

21. The Commission received no comments in direct response to the IRFA and the Supplemental IRFA. However, the Commission received comments that discuss issues of interest to small entities. These comments are discussed in the section of this FRFA discussing the steps taken to minimize significant impact on small entities, and the significant alternatives considered.

D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

22. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental entity" under Section 3 of the Small Business Act. In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

23. *Television Broadcasting.* In this context, the application of the statutory definition to television stations is of concern. The Small Business Administration defines a television broadcasting station that has no more than $13 million in annual receipts as a small business. Business concerns included in this industry are those "primarily engaged in broadcasting images together with sound." According to Commission staff review of the BIA Financial Network, Inc. Media Access Pro Television Database as of December 7, 2007, about 825 (66 percent) of the 1,250 commercial television stations in the United States have revenues of $13 million or less. However, in assessing whether a business entity qualifies as small under the above definition, business control affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by any changes to the ownership rules, because the revenue figures on which this estimate is based do not include or aggregate revenues from affiliated companies.

24. An element of the definition of "small business" is that the entity not be dominant in its field of operation. The Commission is unable at this time and in this context to define or quantify the criteria that would establish whether a specific television station is dominant in its market of operation. Accordingly, the foregoing estimate of small businesses to which the rules may apply does not exclude any television stations from the definition of a small business on this basis and is therefore over-inclusive to that extent. An additional element of the definition of "small business" is that the entity must be independently owned and operated. It is difficult at times to assess these criteria in the context of media entities, and our estimates of small businesses to which they apply may be over-inclusive to this extent.

25. *Radio Broadcasting.* The Small Business Administration defines a radio broadcasting entity that has $6.5 million or less in annual receipts as a small business. Business concerns included in this industry are those "primarily engaged in broadcasting aural programs by radio to the public." According to Commission staff review of the BIA Financial Network, Inc. Media Access Radio Analyzer Database as of December 7, 2007, about 10,500 (95 percent) of 11,050 commercial radio stations in the United States have revenues of $6.5 million or less. We note, however, that in assessing whether a business entity qualifies as small under the above definition, business control affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by any changes to the ownership rules, because the revenue figures on which this estimate is based do not include or

aggregate revenues from affiliated companies.

26. In this context, the application of the statutory definition to radio stations is of concern. An element of the definition of "small business" is that the entity not be dominant in its field of operation. We are unable at this time and in this context to define or quantify the criteria that would establish whether a specific radio station is dominant in its field of operation. Accordingly, the foregoing estimate of small businesses to which the rules may apply does not exclude any radio station from the definition of a small business on this basis and is therefore over-inclusive to that extent. An additional element of the definition of "small business" is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities, and our estimates of small businesses to which they apply may be over-inclusive to this extent.

27. *Daily Newspapers.* The SBA has developed a small business size standard for the census category of Newspaper Publishers; that size standard is 500 or fewer employees. Census Bureau data for 2002 show that there were 5,159 firms in this category that operated for the entire year. Of this total, 5,065 firms had employment of 499 or fewer employees, and an additional 42 firms had employment of 500 to 999 employees. Therefore, we estimate that the majority of Newspaper Publishers are small entities that might be affected by our action.

E. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

28. Broadcasters whose newspaper/broadcast combination is approved under the presumption that a proposed newspaper broadcast combination is consistent with the public interest when it initiates the programming of local newscasts of at least seven hours per week on a broadcast outlet that otherwise was not offering local newscasts prior to the combined operations must report to the Commission annually regarding how they have followed through on their commitment to initiate at least seven hours a week of local news. The *Order* modestly revises the newspaper/broadcast cross-ownership rule and otherwise retains the broadcast ownership rules currently in effect. With the exception of the foregoing reporting requirement, the *Order* imposes no increased reporting, recordkeeping or other compliance requirements.

F. Steps Taken to Minimize Significant Impact on Small Entities and Significant Alternatives Considered

29. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others):

(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

30. The *Order* modestly revises the newspaper/broadcast cross-ownership rule. Under the new rule, the Commission presumes a proposed newspaper/broadcast transaction is not inconsistent with the public interest if it meets the following test: (1) The market at issue is one of the 20 largest Nielsen Designated Market Areas ("DMAs"); (2) the transaction involves the combination of only one major daily newspaper and only one television or radio station; (3) if the transaction involves a television station, at least eight independently owned and operating major media voices (defined to include major newspapers and full-power TV stations) would remain in the DMA following the transaction; and (4) if the transaction involves a television station, that station is not among the top four ranked stations in the DMA. All other proposed newspaper/broadcast transactions would continue to be presumed not in the public interest.

31. Under the new rule, the negative presumption will be reversed in two circumstances. First, the newspaper or broadcast station would have to be considered "failed" or "failing." To be deemed "failed," the newspaper or broadcast station would have to have ceased publication or gone dark at least four months before the filing of an application, or be in bankruptcy proceedings. To be treated as "failing," the applicant must show that (a) the broadcast station has had an all-day audience share of 4 percent or lower, (b) the newspaper or broadcast station has had a negative cash flow for the previous three years, (c) the combination will produce public interest benefits, and (d) the in-market buyer is the only reasonably available candidate willing and able to acquire and operate the newspaper or station. Second, the negative presumption will be reversed when the combination is with a broadcast station that was not offering local newscasts prior to the combination, and the station will initiate at least seven hours per week of local news programming after the combination. Under the new rule, the Commission would consider a negative presumption as establishing a high hurdle as it reviews the transactions on a case-by-case basis. In particular, applicants attempting to overcome a negative presumption about a newspaper television combination will need to demonstrate by clear and convincing evidence that post-merger the merged entity will increase the diversity of independent news outlets (*e.g.*, separate editorial and news coverage decisions) and increase competition among independent news sources in the relevant market. The Commission will use the following factors to inform its evaluation: (1) The extent to which cross-ownership will serve to increase the amount of local news disseminated through the affected media outlets in the combination; (2) whether each affected media outlet in the combination will exercise its own independent news judgment; (3) the level of concentration in the Nielsen DMA; and (4) the financial condition of the newspaper or broadcast station, and if the newspaper or broadcast station is in financial distress, the owner's commitment to invest significantly in newsroom operations. This approach will permit the Commission to balance the needs of the public for media and viewpoint diversity with its concerns about the financial health of traditional media outlets in the context of each particular transaction.

32. The Commission considered other alternatives, but the *Order* retains the other media ownership rules currently in effect. The Commission believes that the decisions it adopts in the *Order* serve our public interest goals, appropriately take account of the current media marketplace, and comply with our statutory responsibilities. It retains the radio/television cross-ownership rule currently in effect to provide protection for diversity goals in local markets and thereby serve the public interest.

33. The *Order* finds that restrictions on common ownership of television stations in local markets continue to be necessary in the public interest to protect competition for viewers and in local television advertising markets. The Commission concludes that, in order to preserve adequate levels of competition within local television markets, the local TV ownership rule as it is

currently in effect should be retained. Accordingly, an entity may own two television stations in the same DMA if: (1) The Grade B contours of the stations do not overlap; or (2) at least one of the stations in the combination is not ranked among the top four stations in terms of audience share, and at least eight independently owned and operating commercial or non-commercial full-power broadcast television stations would remain in the DMA after the combination. To determine the number of voices remaining after the merger, the Commission counts those broadcast television stations whose Grade B signal contours overlap with the Grade B signal contour of at least one of the stations that would be commonly owned. With respect to the waiver standard for the local TV ownership rule, we will reinstate our requirement that a waiver applicant demonstrate that there is no buyer outside the market willing to purchase the station at a reasonable price. Reinstating this requirement will promote the market entry of small businesses, including minority- and women-owned businesses, because it will increase the likelihood that they will learn of purchasing opportunities.

34. The Commission does not revise its decision that DMAs are the more precise geographic markets. Nonetheless, in the instant *Order*, unlike in the *2002 Biennial Review Order*, we are not relaxing the local television ownership rule, and, accordingly, to avoid disruption to settled expectations, we retain the Grade B overlap provision. Furthermore, we believe that maintaining the Grade B provision will promote television service in rural areas by continuing to enable station owners to build or purchase an additional station in a remote corner of the DMA, beyond the reach of their Grade B signal, without regard to the top four/eight voices restriction.

35. The *Order* concludes that the current local radio ownership rule remains "necessary in the public interest" to protect competition in local radio markets. As directed by the *Prometheus* court, the Commission also provides a reasoned justification for our decision to retain the existing numerical limits on local radio ownership and the AM subcaps. In addition, we deny or dismiss a number of pending petitions for reconsideration of the Commission's action concerning the local radio ownership rule in the *2002 Biennial Review Order*. Accordingly, an entity may own, operate, or control (1) up to eight commercial radio stations, not more than five of which are in the same service (*i.e.*, AM or FM), in a radio market with 45 or more full-power, commercial and noncommercial radio stations; (2) up to seven commercial radio stations, not more than four of which are in the same service, in a radio market with between 30 and 44 (inclusive) full-power, commercial and noncommercial radio stations; (3) up to six commercial radio stations, not more than four of which are in the same service, in a radio market with between 15 and 29 (inclusive) full-power, commercial and noncommercial radio stations; and (4) up to five commercial radio stations, not more than three of which are in the same service, in a radio market with 14 or fewer full-power, commercial and noncommercial radio stations, except that an entity may not own, operate, or control more than 50 percent of the stations in such a market. Retaining the AM subcap serves the public interest because the relative affordability of radio compared to other mass media makes it a likely avenue for new entry into the media business, particularly by small businesses.

36. For the same reasons recited by the Commission in 2002, we continue to believe that the dual network rule is necessary in the public interest to promote competition and localism. Accordingly, the *Order* retains the dual network rule in its current form. No petitions were filed asking the Commission to reconsider its decision to retain the rule, and no challenges were filed in *Prometheus*. The Commission sought comment in the *FNPRM* on whether the dual network rule remains necessary in the public interest to promote the Commission's policy goals. Almost all of the few parties commenting on the rule in this proceeding support retaining the rule in its current form. Other parties argue that relaxing or eliminating the rule would increase concentration to the detriment of competition, diversity, and localism. No specific changes to the dual network rule were proposed, and only two parties—Fox and CBS—oppose retaining the rule in any form. Neither of these parties has provided evidence convincing us that a departure from our 2002 decision to retain the rule in its current form is warranted.

37. The *Order* finds that the Commission is foreclosed from addressing the issue of the UHF discount in this proceeding by the 2004 Consolidated Appropriations Act. Although the Appropriations Act did not specifically mention the UHF discount, the *Prometheus* court observed that the statutory 39 percent national cap would be altered if the UHF discount were modified. The court observed that the Appropriations Act amended Section 202(h) to exclude "any rules relating to" the 39 percent national cap, and determined that the UHF discount was a rule "relating to" the national TV cap. The Third Circuit concluded that Congress "apparently intended to insulate the UHF discount from periodic review," but left open the possibility that the Commission may consider the discount in a rulemaking "outside the context of Section 202(h)." Accordingly, the *Order* concludes that the UHF discount is insulated from review under Section 202(h).

38. The *Order* notes that in the pending proceeding entitled *Public Interest Obligations of TV Broadcast Licensees* commenters ask the Commission to impose additional "public interest" obligations on television broadcasters. The *Order* explains that some of the issues raised in that proceeding have already been resolved by the Commission. With respect to other ideas raised in this proceeding such as whether the agency should establish more specific minimum public interest requirements for licensees and how broadcasters could improve political candidates' access to television, the Commission declines to take any further action at this time. Nevertheless, to the extent that circumstances change, the Commission agrees to revisit this decision and initiate proceedings as appropriate.

Congressional Review Act

39. 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).

Ordering Clauses

40. Accordingly, *It is ordered*, that pursuant to the authority contained in sections 1, 2(a), 4(i,), 303, 307, 309 and 310 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309 and 310, and Section 202(h) of the Telecommunications Act of 1996, this *Report and Order and Order on Reconsideration* and the rule modifications attached hereto as Appendix A are adopted, effective thirty (30) days after publication of the text or summary thereof in the **Federal Register**, except for those rules and requirements involving Paperwork Reduction Act burdens, which shall become effective immediately upon announcement in the **Federal Register** of OMB approval. It is our intention in

adopting these rule changes that, if any of the rules that we retain, modify or adopt today, or the application thereof to any person or circumstance, are held to be unlawful, the remaining portions of the rules not deemed unlawful, and the application of such rules to other persons or circumstances, shall remain in effect to the fullest extent permitted by law. Thus, for example, if one of the ownership rules is held to be unlawful, the other ownership rules shall remain in effect to the fullest extent permitted by law, each being severable from the others.

41. *It is further ordered,* that the Petition for Reconsideration filed by Office of Communication of the United Church of Christ, Inc., Black Citizens for a Fair Media, Philadelphia Lesbian and Gay Task Force, and Women's Institute for Freedom of the Press; and the Petition for Reconsideration filed by Minority Media and Telecommunications Council, Counsel for Diversity and Competition Supporters filed in MB Docket No. 02–277 are granted to the extent set forth in this *Order,* and otherwise are denied. The Petitions for Reconsideration filed in MB Docket No. 02–277 by National Association of Black Owned Broadcasters, Inc. and The Rainbow/PUSH Coalition, Inc.; WTCM Radio, Inc.; WJZD, Inc.; Cumulus Media, Inc.; Galaxy Communications, L.P.; Mt. Wilson FM Broadcasters; Entercom Communications Corp.; Great Scott Broadcasting; Treasure and Space Coast Radio; Saga Communications, Inc.; Future of Music Coalition; National Organization for Women; Mid-West Family Broadcasting; Monterey Licenses, LLC; LIN Television Corporation and Raycom Media Inc.; Duff, Ackerman & Goodrich, LLC; Center for the Creative Community and Association of Independent Video and Filmmakers; Robert W. McChesney and Josh Silver of Free Press; Nexstar Broadcasting Group, LLC; Saga Communications, Inc.; Consumers Federation of America and Consumers Union; Capitol Broadcasting Company, Inc.; Bennco, Inc.; The Amherst Alliance and the Virginia Center for the Public Press are dismissed or denied as discussed in this *Order.*

42. *It is further ordered,* that as enumerated in paragraph 76 of the *Report and Order and Order on Reconsideration,* the grandfathering or waivers granted in the 1975 newspaper/broadcast cross-ownership decision, *Amendment of Sections 73.34, 73.240, and 73.636 of the Commission's Rules Relating to Multiple Ownership of Standard, FM, and Television Broadcast Stations,* Docket No. 18110, 50 FCC 2d 1046 (1975) are continued, and all permanent waivers for the prior newspaper-broadcast cross ownership rule that have previously been granted are continued.

43. *It is further ordered,* that as enumerated in paragraph 77 of the *Report and Order and Order on Reconsideration,* waivers are granted to Gannett Co. Inc.'s combination in Phoenix (The Arizona Republic and KPNX-TV), Media General Inc.'s combination in Myrtle Beach-Florence, South Carolina (WBTW(TV) and the Morning News), Media General, Inc.'s combination in Columbus, Georgia (WRBL(TV) and the Opelika-Auburn News), Media General, Inc.'s combination in Panama City, Florida (WMBB(TV) and the Jackson County Floridan), and Media General's combination in the Tri-Cities, Tennessee/Virginia DMA (WJHL–TV and the Bristol (Virginia Tennessee) Herald Courier).

44. *It is further ordered,* that as enumerated in paragraph 78 of the *Report and Order and Order on Reconsideration,* licensees with a pending waiver request that involves an existing station combination consisting of more than one newspaper and/or more than one broadcast station will have 90 days after the effective date of the *Report and Order and Order on Reconsideration* to either amend their renewal or waiver requests or file a request for a permanent waiver.

45. *It is further ordered,* that as enumerated in paragraph 78 of the *Report and Order and Order on Reconsideration,* entities that have been granted a temporary waiver of the newspaper/broadcast cross-ownership rule pending the completion of this rulemaking will have 90 days after the effective date of the Report and Order to either amend their renewal or waiver requests or file a request for a permanent waiver.

46. *It is further ordered,* that the proceedings in MB Docket No. 06–121, MB Docket No. 02–277, MM Docket No. 01–235, MM Docket No. 01–317, MM Docket No. 00–244, and MM Docket No. 99–360 are terminated.

47. *It is further ordered,* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Report and Order and Order on Reconsideration,* including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 73

Radio, Television.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

■ For the reasons discussed 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 reads as follows:

Authority: 47 U.S.C. 154, 303, 334, 336, and 339.

■ 2. Section 73.3555 is revised to read as follows:

§ 73.3555 Multiple ownership.

(a)(1) *Local radio ownership rule.* A person or single entity (or entities under common control) may have a cognizable interest in licenses for AM or FM radio broadcast stations in accordance with the following limits:

(i) In a radio market with 45 or more full-power, commercial and noncommercial radio stations, not more than 8 commercial radio stations in total and not more than 5 commercial stations in the same service (AM or FM);

(ii) In a radio market with between 30 and 44 (inclusive) full-power, commercial and noncommercial radio stations, not more than 7 commercial radio stations in total and not more than 4 commercial stations in the same service (AM or FM);

(iii) In a radio market with between 15 and 29 (inclusive) full-power, commercial and noncommercial radio stations, not more than 6 commercial radio stations in total and not more than 4 commercial stations in the same service (AM or FM); and

(iv) In a radio market with 14 or fewer full-power, commercial and noncommercial radio stations, not more than 5 commercial radio stations in total and not more than 3 commercial stations in the same service (AM or FM); provided, however, that no person or single entity (or entities under common control) may have a cognizable interest in more than 50% of the full-power, commercial and noncommercial radio stations in such market unless the combination of stations comprises not more than one AM and one FM station.

(2) Overlap between two stations in different services is permissible if neither of those two stations overlaps a third station in the same service.

(b) *Local television multiple ownership rule.* An entity may directly or indirectly own, operate, or control two television stations licensed in the

same Designated Market Area (DMA) (as determined by Nielsen Media Research or any successor entity) only under one or more of the following conditions:

(1) The Grade B contours of the stations (as determined by § 73.684) do not overlap; or

(i) At the time the application to acquire or construct the station(s) is filed, at least one of the stations is not ranked among the top four stations in the DMA, based on the most recent all-day (9 a.m.-midnight) audience share, as measured by Nielsen Media Research or by any comparable professional, accepted audience ratings service; and

(ii) At least 8 independently owned and operating, full-power commercial and noncommercial TV stations would remain post-merger in the DMA in which the communities of license of the TV stations in question are located. Count only those stations the Grade B signal contours of which overlap with the Grade B signal contour of at least one of the stations in the proposed combination. In areas where there is no Nielsen DMA, count the TV stations present in an area that would be the functional equivalent of a TV market. Count only those TV stations the Grade B signal contours of which overlap with the Grade B signal contour of at least one of the stations in the proposed combination.

(2) [Reserved]

(c) *Radio-television cross-ownership rule.*

(1) *This rule is triggered when:* (i) The predicted or measured 1 mV/m contour of an existing or proposed FM station (computed in accordance with § 73.313) encompasses the entire community of license of an existing or proposed commonly owned TV broadcast station(s), or the Grade A contour(s) of the TV broadcast station(s) (computed in accordance with § 73.684) encompasses the entire community of license of the FM station; or

(ii) The predicted or measured 2 mV/m groundwave contour of an existing or proposed AM station (computed in accordance with § 73.183 or § 73.386), encompasses the entire community of license of an existing or proposed commonly owned TV broadcast station(s), or the Grade A contour(s) of the TV broadcast station(s) (computed in accordance with § 73.684) encompass(es) the entire community of license of the AM station.

(2) An entity may directly or indirectly own, operate, or control up to two commercial TV stations (if permitted by paragraph (b) of this section, the local television multiple ownership rule) and 1 commercial radio station situated as described in paragraph (c)(1) of this section. An entity may not exceed these numbers, except as follows:

(i) If at least 20 independently owned media voices would remain in the market post-merger, an entity can directly or indirectly own, operate, or control up to:

(A) Two commercial TV and six commercial radio stations (to the extent permitted by paragraph (a) of this section, the local radio multiple ownership rule); or

(B) One commercial TV and seven commercial radio stations (to the extent that an entity would be permitted to own two commercial TV and six commercial radio stations under paragraph (c)(2)(i)(A) of this section, and to the extent permitted by paragraph (a) of this section, the local radio multiple ownership rule).

(ii) If at least 10 independently owned media voices would remain in the market post-merger, an entity can directly or indirectly own, operate, or control up to two commercial TV and four commercial radio stations (to the extent permitted by paragraph (a) of this section, the local radio multiple ownership rule).

(3) To determine how many media voices would remain in the market, count the following:

(i) TV stations: independently owned and operating full-power broadcast TV stations within the DMA of the TV station's (or stations') community (or communities) of license that have Grade B signal contours that overlap with the Grade B signal contour(s) of the TV station(s) at issue;

(ii) *Radio stations:* (A)(1) Independently owned operating primary broadcast radio stations that are in the radio metro market (as defined by Arbitron or another nationally recognized audience rating service) of:

(*i*) The TV station's (or stations') community (or communities) of license; or

(*ii*) The radio station's (or stations') community (or communities) of license; and

(*2*) Independently owned out-of-market broadcast radio stations with a minimum share as reported by Arbitron or another nationally recognized audience rating service.

(B) When a proposed combination involves stations in different radio markets, the voice requirement must be met in each market; the radio stations of different radio metro markets may not be counted together.

(C) In areas where there is no radio metro market, count the radio stations present in an area that would be the functional equivalent of a radio market.

(iii) Newspapers: Newspapers that are published at least four days a week within the TV station's DMA in the dominant language of the market and that have a circulation exceeding 5% of the households in the DMA; and

(iv) One cable system: if cable television is generally available to households in the DMA. Cable television counts as only one voice in the DMA, regardless of how many individual cable systems operate in the DMA.

(d) *Daily newspaper cross-ownership rule.* (1) No license for an AM, FM or TV broadcast station shall be granted to any party (including all parties under common control) if such party directly or indirectly owns, operates or controls a daily newspaper and the grant of such license will result in:

(i) The predicted or measured 2 mV/m contour of an AM station, computed in accordance with § 73.183 or § 73.186, encompassing the entire community in which such newspaper is published; or

(ii) The predicted 1 mV/m contour for an FM station, computed in accordance with § 73.313, encompassing the entire community in which such newspaper is published; or

(iii) The Grade A contour of a TV station, computed in accordance with § 73.684, encompassing the entire community in which such newspaper is published.

(2) Paragraph (d)(1) of this section shall not apply in cases where the Commission makes a finding pursuant to Section 310(d) of the Communications Act that the public interest, convenience, and necessity would be served by permitting an entity that owns, operates or controls a daily newspaper to own, operate or control an AM, FM, or TV broadcast station whose relevant contour encompasses the entire community in which such newspaper is published as set forth in paragraph (d)(1) of this section.

(3) In making a finding under paragraph (d)(2) of this section, there shall be a presumption that it is not inconsistent with the public interest, convenience, and necessity for an entity to own, operate or control a daily newspaper in a top 20 Nielsen DMA and one commercial AM, FM or TV broadcast station whose relevant contour encompasses the entire community in which such newspaper is published as set forth in paragraph (d)(1) of this section, provided that, with respect to a combination including a commercial TV station,

(i) The station is not ranked among the top four TV stations in the DMA, based on the most recent all-day (9 a.m.-midnight) audience share, as measured

by Nielsen Media Research or by any comparable professional, accepted audience ratings service; and

(ii) At least 8 independently owned and operating major media voices would remain in the DMA in which the community of license of the TV station in question is located (for purposes of this provision major media voices include full-power TV broadcast stations and major newspapers).

(4) In making a finding under paragraph (d)(2) of this section, there shall be a presumption that it is inconsistent with the public interest, convenience, and necessity for an entity to own, operate or control a daily newspaper and an AM, FM or TV broadcast station whose relevant contour encompasses the entire community in which such newspaper is published as set forth in paragraph (d)(1) of this section in a DMA other than the top 20 Nielsen DMAs or in any circumstance not covered under paragraph (d)(3) of this section.

(5) In making a finding under paragraph (d)(2) of this section, the Commission shall consider:

(i) Whether the combined entity will significantly increase the amount of local news in the market;

(ii) Whether the newspaper and the broadcast outlets each will continue to employ its own staff and each will exercise its own independent news judgment;

(iii) The level of concentration in the Nielsen Designated Market Area (DMA); and

(iv) The financial condition of the newspaper or broadcast station, and if the newspaper or broadcast station is in financial distress, the proposed owner's commitment to invest significantly in newsroom operations.

(6) In order to overcome the negative presumption set forth in paragraph (d)(4) of this section with respect to the combination of a major newspaper and a television station, the applicant must show by clear and convincing evidence that the co-owned major newspaper and station will increase the diversity of independent news outlets and increase competition among independent news sources in the market, and the factors set forth above in paragraph (d)(5) of this section will inform this decision.

(7) The negative presumption set forth in paragraph (d)(4) of this section shall be reversed under the following two circumstances:

(i) The newspaper or broadcast station is failed or failing; or

(ii) The combination is with a broadcast station that was not offering local newscasts prior to the combination, and the station will initiate at least seven hours per week of local news programming after the combination.

(e) *National television multiple ownership rule.* (1) No license for a commercial television broadcast station shall be granted, transferred or assigned to any party (including all parties under common control) if the grant, transfer or assignment of such license would result in such party or any of its stockholders, partners, members, officers or directors having a cognizable interest in television stations which have an aggregate national audience reach exceeding thirty-nine (39) percent.

(2) *For purposes of this paragraph* (e):

(i) National audience reach means the total number of television households in the Nielsen Designated Market Areas (DMAs) in which the relevant stations are located divided by the total national television households as measured by DMA data at the time of a grant, transfer, or assignment of a license. For purposes of making this calculation, UHF television stations shall be attributed with 50 percent of the television households in their DMA market.

(ii) No market shall be counted more than once in making this calculation.

(3) Divestiture. A person or entity that exceeds the thirty-nine (39) percent national audience reach limitation for television stations in paragraph (e)(1) of this section through grant, transfer, or assignment of an additional license for a commercial television broadcast station shall have not more than 2 years after exceeding such limitation to come into compliance with such limitation. This divestiture requirement shall not apply to persons or entities that exceed the 39 percent national audience reach limitation through population growth.

(f) The ownership limits of this section are not applicable to noncommercial educational FM and noncommercial educational TV stations. However, the attribution standards set forth in the Notes to this section will be used to determine attribution for noncommercial educational FM and TV applicants, such as in evaluating mutually exclusive applications pursuant to subpart K of part 73.

Note 1 to § 73.3555: The words "cognizable interest" as used herein include any interest, direct or indirect, that allows a person or entity to own, operate or control, or that otherwise provides an attributable interest in, a broadcast station.

Note 2 to § 73.3555: In applying the provisions of this section, ownership and other interests in broadcast licensees, cable television systems and daily newspapers will be attributed to their holders and deemed cognizable pursuant to the following criteria:

a. Except as otherwise provided herein, partnership and direct ownership interests and any voting stock interest amounting to 5% or more of the outstanding voting stock of a corporate broadcast licensee, cable television system or daily newspaper will be cognizable;

b. Investment companies, as defined in 15 U.S.C. 80a–3, insurance companies and banks holding stock through their trust departments in trust accounts will be considered to have a cognizable interest only if they hold 20% or more of the outstanding voting stock of a corporate broadcast licensee, cable television system or daily newspaper, or if any of the officers or directors of the broadcast licensee, cable television system or daily newspaper are representatives of the investment company, insurance company or bank concerned. Holdings by a bank or insurance company will be aggregated if the bank or insurance company has any right to determine how the stock will be voted. Holdings by investment companies will be aggregated if under common management.

c. Attribution of ownership interests in a broadcast licensee, cable television system or daily newspaper that are held indirectly by any party through one or more intervening corporations will be determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain and application of the relevant attribution benchmark to the resulting product, except that wherever the ownership percentage for any link in the chain exceeds 50%, it shall not be included for purposes of this multiplication. For purposes of paragraph i. of this note, attribution of ownership interests in a broadcast licensee, cable television system or daily newspaper that are held indirectly by any party through one or more intervening organizations will be determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain and application of the relevant attribution benchmark to the resulting product, and the ownership percentage for any link in the chain that exceeds 50% shall be included for purposes of this multiplication. [For example, except for purposes of paragraph (i) of this note, if A owns 10% of company X, which owns 60% of company Y, which owns 25% of "Licensee," then X's interest in "Licensee" would be 25% (the same as Y's interest because X's interest in Y exceeds 50%), and A's interest in "Licensee" would be 2.5% (0.1×0.25). Under the 5% attribution benchmark, X's interest in "Licensee" would be cognizable, while A's interest would not

be cognizable. For purposes of paragraph i. of this note, X's interest in "Licensee" would be 15% (0.6 × 0.25) and A's interest in "Licensee" would be 1.5% (0.1 × 0.6 × 0.25). Neither interest would be attributed under paragraph i. of this note.]

d. Voting stock interests held in trust shall be attributed to any person who holds or shares the power to vote such stock, to any person who has the sole power to sell such stock, and to any person who has the right to revoke the trust at will or to replace the trustee at will. If the trustee has a familial, personal or extra-trust business relationship to the grantor or the beneficiary, the grantor or beneficiary, as appropriate, will be attributed with the stock interests held in trust. An otherwise qualified trust will be ineffective to insulate the grantor or beneficiary from attribution with the trust's assets unless all voting stock interests held by the grantor or beneficiary in the relevant broadcast licensee, cable television system or daily newspaper are subject to said trust.

e. Subject to paragraph i. of this note, holders of non-voting stock shall not be attributed an interest in the issuing entity. Subject to paragraph i. of this note, holders of debt and instruments such as warrants, convertible debentures, options or other non-voting interests with rights of conversion to voting interests shall not be attributed unless and until conversion is effected.

f. 1. A limited partnership interest shall be attributed to a limited partner unless that partner is not materially involved, directly or indirectly, in the management or operation of the media-related activities of the partnership and the licensee or system so certifies. An interest in a Limited Liability Company ("LLC") or Registered Limited Liability Partnership ("RLLP") shall be attributed to the interest holder unless that interest holder is not materially involved, directly or indirectly, in the management or operation of the media-related activities of the partnership and the licensee or system so certifies.

2. For a licensee or system that is a limited partnership to make the certification set forth in paragraph f. 1. of this note, it must verify that the partnership agreement or certificate of limited partnership, with respect to the particular limited partner exempt from attribution, establishes that the exempt limited partner has no material involvement, directly or indirectly, in the management or operation of the media activities of the partnership. For a licensee or system that is an LLC or RLLP to make the certification set forth in paragraph f. 1. of this note, it must verify that the organizational document, with respect to the particular interest holder exempt from attribution, establishes that the exempt interest holder has no material involvement, directly or indirectly, in the management or operation of the media activities of the LLC or RLLP. The criteria which would assume adequate insulation for purposes of this certification are described in the Memorandum Opinion and Order in MM Docket No. 83–46, FCC 85–252 (released June 24, 1985), as modified on reconsideration in the Memorandum Opinion and Order in MM Docket No. 83–46, FCC 86–410 (released November 28, 1986). Irrespective of the terms of the certificate of limited partnership or partnership agreement, or other organizational document in the case of an LLC or RLLP, however, no such certification shall be made if the individual or entity making the certification has actual knowledge of any material involvement of the limited partners, or other interest holders in the case of an LLC or RLLP, in the management or operation of the media-related businesses of the partnership or LLC or RLLP.

3. In the case of an LLC or RLLP, the licensee or system seeking insulation shall certify, in addition, that the relevant state statute authorizing LLCs permits an LLC member to insulate itself as required by our criteria.

g. Officers and directors of a broadcast licensee, cable television system or daily newspaper are considered to have a cognizable interest in the entity with which they are so associated. If any such entity engages in businesses in addition to its primary business of broadcasting, cable television service or newspaper publication, it may request the Commission to waive attribution for any officer or director whose duties and responsibilities are wholly unrelated to its primary business. The officers and directors of a parent company of a broadcast licensee, cable television system or daily newspaper, with an attributable interest in any such subsidiary entity, shall be deemed to have a cognizable interest in the subsidiary unless the duties and responsibilities of the officer or director involved are wholly unrelated to the broadcast licensee, cable television system or daily newspaper subsidiary, and a statement properly documenting this fact is submitted to the Commission. [This statement may be included on the appropriate Ownership Report.] The officers and directors of a sister corporation of a broadcast licensee, cable television system or daily newspaper shall not be attributed with ownership of these entities by virtue of such status.

h. Discrete ownership interests will be aggregated in determining whether or not an interest is cognizable under this section. An individual or entity will be deemed to have a cognizable investment if:

1. The sum of the interests held by or through "passive investors" is equal to or exceeds 20 percent; or

2. The sum of the interests other than those held by or through "passive investors" is equal to or exceeds 5 percent; or

3. The sum of the interests computed under paragraph h. 1. of this note plus the sum of the interests computed under paragraph h. 2. of this note is equal to or exceeds 20 percent.

i. Notwithstanding paragraphs e. and f. of this note, the holder of an equity or debt interest or interests in a broadcast licensee, cable television system, daily newspaper, or other media outlet subject to the broadcast multiple ownership or cross-ownership rules ("interest holder") shall have that interest attributed if:

1. The equity (including all stockholdings, whether voting or nonvoting, common or preferred) and debt interest or interests, in the aggregate, exceed 33 percent of the total asset value, defined as the aggregate of all equity plus all debt, of that media outlet; and

2. i. The interest holder also holds an interest in a broadcast licensee, cable television system, newspaper, or other media outlet operating in the same market that is subject to the broadcast multiple ownership or cross-ownership rules and is attributable under paragraphs of this note other than this paragraph (i); or

ii. The interest holder supplies over fifteen percent of the total weekly broadcast programming hours of the station in which the interest is held. For purposes of applying this paragraph, the term, "market," will be defined as it is defined under the specific multiple or cross-ownership rule that is being applied, except that for television stations, the term "market," will be defined by reference to the definition contained in the local television multiple ownership rule contained in paragraph (b) of this section.

j. "Time brokerage" (also known as "local marketing") is the sale by a licensee of discrete blocks of time to a "broker" that supplies the programming to fill that time and sells the commercial spot announcements in it.

1. Where two radio stations are both located in the same market, as defined

for purposes of the local radio ownership rule contained in paragraph (a) of this section, and a party (including all parties under common control) with a cognizable interest in one such station brokers more than 15 percent of the broadcast time per week of the other such station, that party shall be treated as if it has an interest in the brokered station subject to the limitations set forth in paragraphs (a), (c), and (d) of this section. This limitation shall apply regardless of the source of the brokered programming supplied by the party to the brokered station.

2. Where two television stations are both located in the same market, as defined in the local television ownership rule contained in paragraph (b) of this section, and a party (including all parties under common control) with a cognizable interest in one such station brokers more than 15 percent of the broadcast time per week of the other such station, that party shall be treated as if it has an interest in the brokered station subject to the limitations set forth in paragraphs (b), (c), (d) and (e) of this section. This limitation shall apply regardless of the source of the brokered programming supplied by the party to the brokered station.

3. Every time brokerage agreement of the type described in this Note shall be undertaken only pursuant to a signed written agreement that shall contain a certification by the licensee or permittee of the brokered station verifying that it maintains ultimate control over the station's facilities including, specifically, control over station finances, personnel and programming, and by the brokering station that the agreement complies with the provisions of paragraphs (b), (c), and (d) of this section if the brokering station is a television station or with paragraphs (a), (c), and (d) of this section if the brokering station is a radio station.

k. "Joint Sales Agreement" is an agreement with a licensee of a "brokered station" that authorizes a "broker" to sell advertising time for the "brokered station."

1. Where two radio stations are both located in the same market, as defined for purposes of the local radio ownership rule contained in paragraph (a) of this section, and a party (including all parties under common control) with a cognizable interest in one such station sells more than 15 percent of the advertising time per week of the other such station, that party shall be treated as if it has an interest in the brokered station subject to the limitations set forth in paragraphs (a), (c), and (d) of this section.

2. Every joint sales agreement of the type described in this Note shall be undertaken only pursuant to a signed written agreement that shall contain a certification by the licensee or permittee of the brokered station verifying that it maintains ultimate control over the station's facilities, including, specifically, control over station finances, personnel and programming, and by the brokering station that the agreement complies with the limitations set forth in paragraphs (a), (c), and (d) of this section.

Note 3 to § 73.3555: In cases where record and beneficial ownership of voting stock is not identical (*e.g.*, bank nominees holding stock as record owners for the benefit of mutual funds, brokerage houses holding stock in street names for the benefit of customers, investment advisors holding stock in their own names for the benefit of clients, and insurance companies holding stock), the party having the right to determine how the stock will be voted will be considered to own it for purposes of these rules.

Note 4 to § 73.3555: Paragraphs (a) through (d) of this section will not be applied so as to require divestiture, by any licensee, of existing facilities, and will not apply to applications for assignment of license or transfer of control filed in accordance with § 73.3540(f) or § 73.3541(b), or to applications for assignment of license or transfer of control to heirs or legatees by will or intestacy, if no new or increased concentration of ownership would be created among commonly owned, operated or controlled media properties. Paragraphs (a) through (d) of this section will apply to all applications for new stations, to all other applications for assignment or transfer, to all applications for major changes to existing stations, and to applications for minor changes to existing stations that implement an approved change in an FM radio station's community of license or create new or increased concentration of ownership among commonly owned, operated or controlled media properties. Commonly owned, operated or controlled media properties that do not comply with paragraphs (a) through (d) of this section may not be assigned or transferred to a single person, group or entity, except as provided in this Note or in the Report and Order in Docket No. 02–277, released July 2, 2003 (FCC 02–127).

Note 5 to § 73.3555: Paragraphs (b) through (e) of this section will not be applied to cases involving television stations that are "satellite" operations. Such cases will be considered in accordance with the analysis set forth in the Report and Order in MM Docket No. 87–8, FCC 91–182 (released July 8, 1991), in order to determine whether common ownership, operation, or control of the stations in question would be in the public interest. An authorized and operating "satellite" television station, the Grade B contour of which overlaps that of a commonly owned, operated, or controlled "non-satellite" parent television broadcast station, or the Grade A contour of which completely encompasses the community of publication of a commonly owned, operated, or controlled daily newspaper, or the community of license of a commonly owned, operated, or controlled AM or FM broadcast station, or the community of license of which is completely encompassed by the 2 mV/m contour of such AM broadcast station or the 1 mV/m contour of such FM broadcast station, may subsequently become a "non-satellite" station under the circumstances described in the aforementioned Report and Order in MM Docket No. 87–8. However, such commonly owned, operated, or controlled "non-satellite" television stations and AM or FM stations with the aforementioned community encompassment, may not be transferred or assigned to a single person, group, or entity except as provided in Note 4 of this section. Nor shall any application for assignment or transfer concerning such "non-satellite" stations be granted if the assignment or transfer would be to the same person, group or entity to which the commonly owned, operated, or controlled newspaper is proposed to be transferred, except as provided in Note 4 of this section.

Note 6 to § 73.3555: For purposes of this section a daily newspaper is one which is published four or more days per week, which is in the dominant language in the market, and which is circulated generally in the community of publication. A college newspaper is not considered as being circulated generally.

Note 7 to § 73.3555: The Commission will entertain applications to waive the restrictions in paragraph (b) and (c) of this section (the local television ownership rule and the radio/television cross-ownership rule) on a case-by-case basis. In each case, we will require a showing that the in-market buyer is the only entity ready, willing, and able to operate the station, that sale to an out-of-market applicant would result in an artificially depressed price, and that the waiver applicant does not already directly or indirectly own, operate, or control interest in two television stations within the relevant DMA. One way to satisfy these criteria would be to provide an affidavit from an independent broker affirming that active and serious efforts have been made to sell the permit, and that no reasonable offer from an entity outside the market has been received.

We will entertain waiver requests as follows:

1. If one of the broadcast stations involved is a "failed" station that has not been in operation due to financial distress for at least four consecutive months immediately prior to the application, or is a debtor in an involuntary bankruptcy or insolvency proceeding at the time of the application.

2. For paragraph (b) of this section only, if one of the television stations involved is a "failing" station that has an all-day audience share of no more than four per cent; the station has had negative cash flow for three consecutive years immediately prior to the application; and consolidation of the two stations would result in tangible and

verifiable public interest benefits that outweigh any harm to competition and diversity.

3. For paragraph (b) of this section only, if the combination will result in the construction of an unbuilt station. The permittee of the unbuilt station must demonstrate that it has made reasonable efforts to construct but has been unable to do so.

Note 8 to § 73.3555: Paragraph (a)(1) of this section will not apply to an application for an AM station license in the 535–1605 kHz band where grant of such application will result in the overlap of 5 mV/m groundwave contours of the proposed station and that of another AM station in the 535–1605 kHz band that is commonly owned, operated or controlled if the applicant shows that a significant reduction in interference to adjacent or co-channel stations would accompany such common ownership. Such AM overlap cases will be considered on a case-by-case basis to determine whether common ownership, operation or control of the stations in question would be in the public interest. Applicants in such cases must submit a contingent application of the major or minor facilities change needed to achieve the interference reduction along with the application which seeks to create the 5 mV/m overlap situation.

Note 9 to § 73.3555: Paragraph (a)(1) of this section will not apply to an application for an AM station license in the 1605–1705 kHz band where grant of such application will result in the overlap of the 5 mV/m groundwave contours of the proposed station and that of another AM station in the 535–1605 kHz band that is commonly owned, operated or controlled. Paragraphs (d)(1)(i) and (d)(1)(ii) of this section will not apply to an application for an AM station license in the 1605–1705 kHz band by an entity that owns, operates, controls or has a cognizable interest in AM radio stations in the 535–1605 kHz band.

Note 10 to § 73.3555: Authority for joint ownership granted pursuant to Note 9 will expire at 3 a.m. local time on the fifth anniversary for the date of issuance of a construction permit for an AM radio station in the 1605–1705 kHz band.

[FR Doc. E8–3133 Filed 2–20–08; 8:45 am]
BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 08–273; MB Docket No. 07–164; RM–11386]

Radio Broadcasting Services; Peach Springs, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, at the request of Smoke and Mirrors, LLC, allots Channel 268C3 at Peach Springs, Arizona, in lieu of vacant Channel 285C3. Channel 268C3 can be allotted at Peach Springs, Arizona, in compliance with the Commission's minimum distance separation requirements with a site restriction of 15.3 km (9.5 miles) west of Peach Springs at the following reference coordinates: 35–29–35 North Latitude and 113–35–17 West Longitude.

DATES: Effective March 17, 2008.

ADDRESSES: Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Deborah Dupont, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MB Docket No. 07–164, adopted January 30, 2008, and released February 1, 2008. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (800) 378–3160, or via the company's Web site, *http://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 Arizona, is amended by removing Channel 285C3 and adding Channel 268C3 at Peach Springs.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E8–3262 Filed 2–20–08; 8:45 am]
BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 08–272; MB Docket No. 05–150; RM–11214]

Radio Broadcasting Services; Norfolk and Windsor, VA

AGENCY: Federal Communications Commission.

ACTION: Final rule, grant.

SUMMARY: This document grants a Petition for Reconsideration filed by CC Licenses, LLC, directed to the *Report and Order* in this proceeding. In doing so, it reallots Channel 299A from Windsor to Norfolk, Virginia, and modifies the Station WJCD license to specify Norfolk as the community of license. To replace the loss of a sole local service at Windsor, it also reallots Channel 287B from Norfolk to Windsor and modifies the Station WKUS license to specify Windsor as the community of license. The reference coordinates for the Channel 299A allotment at Norfolk, Virginia, are 36–55–26 and 76–15–05. The reference coordinates for the Channel 287B allotment at Windsor, Virginia, are 36–48–47 and 76–35–57. With this action, the proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Media Bureau (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Memorandum Opinion and Order* in MB Docket No. 05–150, adopted January 31, 2008, and released February 1, 2008. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Information Center at Portals II, 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., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *www.BCPIWEB.com*. On March 14, 2008, the Media Bureau's Consolidated Database System will reflect as the reserved assignment for Station WJCD, Channel 299A at Norfolk, Virginia in lieu of Windsor, Virginia, and the

reserved assignment for Station WKUS, Channel 287B at Windsor, Virginia in lieu of Norfolk, Virginia. The Commission will not send a copy of this *Memorandum Opinion and Order* pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the adopted rules are rules of particular applicability.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E8–3263 Filed 2–20–08; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket Nos. 070213032–7032–01 and 070213033–7033–01]

RIN 0648–XF29

Fisheries of the Exclusive Economic Zone Off Alaska; Sablefish Managed Under the Individual Fishing Quota Program

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

ACTION: Temporary rule; opening.

SUMMARY: NMFS is opening directed fishing for sablefish with fixed gear managed under the Individual Fishing Quota (IFQ) Program. The season will open 1200 hrs, Alaska local time (A.l.t.), March 8, 2008, and will close 1200 hrs, A.l.t., November 15, 2008. This period is the same as the 2008 IFQ and Community Development Quota season for Pacific halibut adopted by the International Pacific Halibut Commission (IPHC). The IFQ halibut season is specified by a separate publication in the **Federal Register** of annual management measures.

DATES: Effective 1200 hrs, A.l.t., March 8, 2008, until 1200 hrs, A.l.t., November 15, 2008.

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

SUPPLEMENTARY INFORMATION: Beginning in 1995, fishing for Pacific halibut (*Hippoglossus stenolepis*) and sablefish (*Anoplopoma fimbria*) with fixed gear in the IFQ regulatory areas defined in § 679.2 has been managed under the IFQ Program. The IFQ Program is a regulatory regime designed to promote the conservation and management of these fisheries and to further the objectives of the Magnuson-Stevens Fishery Conservation and Management Act and the Northern Pacific Halibut Act. Persons holding quota share receive an annual allocation of IFQ. Persons receiving an annual allocation of IFQ are authorized to harvest IFQ species within specified limitations. Further information on the implementation of the IFQ Program, and the rationale supporting it, are contained in the preamble to the final rule implementing the IFQ Program published in the **Federal Register**, November 9, 1993 (58 FR 59375) and subsequent amendments.

This announcement is consistent with § 679.23(g)(1), which requires that the directed fishing season for sablefish managed under the IFQ Program be specified by the Administrator, Alaska Region, and announced by publication in the **Federal Register**. This method of season announcement was selected to facilitate coordination between the sablefish season, chosen by the Administrator, Alaska Region, and the halibut season, chosen by the IPHC. The directed fishing season for sablefish with fixed gear managed under the IFQ Program will open 1200 hrs, A.l.t., March 8, 2008, and will close 1200 hrs, A.l.t., November 15, 2008. This period runs concurrently with the IFQ season for Pacific halibut announced by the IPHC. The IFQ halibut season will be specified by a separate publication in the **Federal Register** of annual management measures pursuant to 50 CFR 300.62.

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 opening of the sablefish fishery thereby increasing bycatch and regulatory discards between the sablefish fishery and the halibut fishery, and preventing the accomplishment of the management objective for simultaneous opening of these two fisheries. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of February 13, 2008.

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 § 679.23 and is exempt from review under Executive Order 12866.

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

Dated: February 14, 2008.

Emily H. Menashes

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

[FR Doc. 08–787 Filed 2–15–08; 2:38 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 73, No. 35
Thursday, February 21, 2008

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 33

[Docket No. FAA–2007–28503; Notice No. 08–01]

RIN 2120–AJ04

Airworthiness Standards; Fire Protection

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to change aircraft engine fire protection certification standards to upgrade and harmonize them with European Aviation Safety Agency (EASA) requirements. The proposed changes, if adopted, would provide nearly uniform fire protection certification standards for engines certificated in the United States under 14 CFR part 33 and in European countries under EASA Certification Specifications for Engines (CS–E), and would simplify international type certification.

DATES: Send your comments on or before May 21, 2008.

ADDRESSES: You may send comments identified by Docket Number FAA–2007–28503 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for submitting comments electronically.
- *Mail:* Send comments to the Docket Operations, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Bring comments to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to the Docket Operations at 202–493–2251.

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000 [65 FR 19477–78] or you may visit *http://DocketsInfo.dot.gov*.

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Marc Bouthillier, Engine and Propeller Directorate Standards Staff, ANE–110, Engine and Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803–5299; telephone (781) 238–7120; fax (781) 238–7199; e-mail *marc.bouthillier@faa.gov*.

SUPPLEMENTARY INFORMATION: Later in this preamble under the Additional Information section, we discuss how you can comment on this proposal and how we will handle your comments. Included in this discussion is related information about the docket, privacy, and the handling of proprietary or confidential business information. We also discuss how you can get a copy of this proposal and related rulemaking.

Authority for This Rulemaking

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

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce, including minimum safety standards for aircraft engines. This proposed rule is within the scope of that authority because it updates the existing regulations for aircraft engine fire protection.

Background

Part 33 of Title 14 of the Code of Federal Regulations (14 CFR part 33) prescribes airworthiness standards for original and amended type certificates for aircraft engines certificated in the United States (U.S.). The Certification Specifications for Engines (CS–E) prescribe corresponding airworthiness standards for aircraft engine certification in Europe by the European Aviation Safety Agency (EASA). While part 33 and the European regulations are similar, they differ in several respects. These differences can result in additional costs and delays.

In 1989, the FAA met with the European Joint Aviation Authorities, U.S. and European aviation industry representatives to harmonize U.S. and European certification standards. Transport Canada subsequently joined this effort. The FAA tasked the Aviation Rulemaking Advisory Committee (ARAC) through its Engine Harmonization Working Group to review existing regulations and recommend changes to eliminate differences in U.S. and European engine certification fire protection standards. This proposed rule is based on Aviation Rulemaking Advisory Committee (ARAC) recommendations to the FAA.

General Discussion of the Proposal

This notice proposes to change the fire protection standards for issuing original and amended aircraft engine type certificates. This proposal results from an effort to improve and harmonize Federal Aviation Regulations 14 CFR part 33 with the European requirements of EASA CS–E. The proposal addresses ARAC recommendations, concurred with by industry, and based on language

generally common to both part 33 and CS–E.

Our proposed changes would provide nearly uniform fire protection certification standards for engines certificated in the United States under part 33 and in Europe under EASA CS–E, thereby simplifying aircraft engine import and export activities. The proposal also reflects current industry design and FAA certification practices.

Section 33.17 Fire Protection

Section 33.17 sets standards for fire prevention and protection in the design and construction of aircraft engines. Our proposal would change the section title from "Fire Prevention" to "Fire Protection" and harmonize the section with CS–E standards. We propose to modify the section as follows:

(1) Clarify existing requirements in paragraphs (a), (b), (c), and (e),

(2) Delete current requirements for supersonic engines from paragraph (d), and add new requirements for components acting as firewalls,

(3) Renumber paragraph (e) as new paragraph (f),

(4) Add new paragraph (e) to specify requirements for engine control systems; and

(5) Add new paragraph (g) to include requirements for electrical bonding.

Our proposed change to paragraph (b) would differentiate between drain lines and other components and would not apply to certain drain lines. This revision would be consistent with our fire protection requirements in §§ 23.1183(b)(2), 25.1183(b)(2), 27.1183(b)(2), and 29.1183(b)(2).

Proposed paragraph (c) adds "associated shut-off means" to the first sentence; changes "must be fireproof or be enclosed by fireproof shield" to "must be fireproof by construction or protection"; and incorporates the term "hazardous quantity". The addition of the term "shutoff means" adds tank shutoff devices to the rule's applicability, and thereby provides additional margin against feeding a fire from a flammable fluid tank due to failure of such a device. A shutoff means can be separate from the tank itself, but is an integral part of the tank system and needs to be considered under these fire protection requirements. Other proposed changes are clarifying in nature and would harmonize U.S. and European standards.

The FAA proposes to remove the requirements in current paragraph (d) in response to recommendations resulting from an FAA/ARAC review of an industry study on supersonic transports. The study concluded the maximum temperature levels of controls and accessories installed in supersonic aircraft were not significantly greater than maximum temperature levels of components installed in subsonic applications. The study showed that components used on supersonic applications required no additional fire protection because the severity, frequency, and duration of fire would be similar to those found in subsonic applications. The study showed, and we agree, that additional fire protection is not required for these components.

Proposed new paragraph (d) would require that even though the noted components do not contain or convey flammable fluids, by their definition, they must be fireproof. This proposal will add requirements consistent with §§ 23.1191, 25.1191, 27.1191, and 29.1191 "Firewalls".

We propose to redesignate current paragraph (e) as paragraph (f) and rephrase the text for clarity.

Our new proposed paragraph (e) would address engine control system effects when associated components are exposed to a fire. Control system components (for example, electronic, fiber optic, hydromechanical) should not cause any hazardous effects when exposed to fire, and should be addressed in the fire protection section. These proposed new requirements would be consistent with the associated aircraft requirements. The designated fire zones in new paragraph (e) are defined in existing §§ 23.1181, 25.1181, and 29.1181. Our proposed paragraph (g) would minimize static discharge sources of ignition for flammable fluids or vapors.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that no new information collection requirements are associated with this proposed rule.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, FAA policy is to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. We determined that no ICAO Standards and Recommended Practices correspond to these proposed regulations.

Regulatory Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation from the base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this proposed rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed rule does not warrant a full evaluation, this Order permits that a statement to that effect and the basis for it to be included in the preamble if a full regulatory evaluation of the costs and benefits is not prepared. Such a determination has been made for this proposed rule.

Presently, turbine airplane engine manufacturers must satisfy both the FAA and the EASA certification standards in order for airplane manufacturers to market airplanes with those engines in both the United States and Europe. Meeting two different sets of certification requirements can raise the cost of developing a new airplane engine without increasing safety. In the interest of fostering international trade, lowering the cost of airplane engine development, making the certification process more efficient, and enhancing safety, the FAA, EASA, and airplane engine manufacturers have been working to create to the maximum

possible extent a common set of certification requirements accepted in both the United States and Europe.

The FAA estimates that there would be minimal costs associated with this proposed rule. A review of information provided by manufacturers of turbine airplane engines certificated under part 33 has revealed that all such future airplane engines are expected to be certificated under both FAA and EASA standards. As this proposed rule would unify these requirements in a common international standard, and certificated turbine airplane engines currently meet both sets of requirements, manufacturers would incur minimal additional costs from this proposed rule. In fact, manufacturers are expected to receive cost-savings from a reduction in the amount of duplicate documentation of tests for the two different sets of requirements. Further, the proposed rule would codify existing industry practices into the regulations. The FAA has not attempted to quantify the cost savings that may accrue due to this specific proposed rule, beyond noting that while they may be minimal, they would contribute to a potential harmonization savings. The agency has made that conclusion based on the consensus among potentially affected airplane engine manufacturers. Further, the current level of safety would be enhanced as a result of the proposed rule. As a result, the FAA has concluded that this proposed rule would be cost beneficial. The FAA requests comments regarding this determination.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration. The RFA covers a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare an initial regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a proposed rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA concluded that this proposed rule would not have a significant impact on a substantial number of small entities for two reasons. First, as noted earlier, the net effect of the proposed rule would provide regulatory cost relief. Second, all United States turbine airplane engine manufacturers but one, exceed the Small Business Administration small-entity criteria of 1,500 employees for airplane engine manufacturers. United States transport category airplane engine manufacturers include: General Electric, CFM International, Pratt & Whitney, International Aero Engines, Rolls-Royce Corporation, Honeywell, and Williams International. Williams International is the only one of these manufacturers that is a U.S. small business.

Given that we believe this proposed rule would reduce costs, and that only one part 33-airplane engine manufacturer currently qualifies as a small entity, the FAA certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39) prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this proposed rule and determined it responds to a domestic safety objective and is not considered an unnecessary barrier to trade.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure of $100 million or more (adjusted annually for inflation) by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action." The FAA currently uses an inflation-adjusted value of $128.1 million in lieu of $100 million.

This proposed rule does not contain such a mandate. The requirements of Title II do not apply.

Executive Order 13132, Federalism

The FAA analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore would not have federalism implications.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. We determined that this proposed rulemaking action qualifies for the categorical exclusion identified in Chapter 3, paragraph 312d and involves no extraordinary circumstances.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this NPRM under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). We have determined that it is not a "significant energy action" under the executive order because it is not a "significant regulatory action" under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

Additional Information

Comments Invited

The FAA invites interested persons to participate in this rulemaking by sending written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments,

please send only one copy of written comments, or if you are filing comments electronically, please submit your comments only one time.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. The docket is available for public inspection before and after the comment closing date. Before acting on this proposal, we will consider all comments received on or before the closing date for comments. Comments filed after the comment period closes are considered if possible to do so without incurring expense or delay. We may change this proposal in light of the comments received.

Proprietary or Confidential Business Information

Do not file in the docket information that you consider proprietary or confidential business information. Send or deliver this information directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document. You must mark the information that you consider proprietary or confidential. If you send the information on a disk or CD–ROM, mark the outside of the disk or CD–ROM and identify electronically within the disk or CD–ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), when we are aware of proprietary information filed with a comment, we do not place it in the docket. We hold it in a separate file to which the public does not have access, and we place a note in the docket that we have received it. If we receive a request to examine or copy this information, we treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). We process such a request under the DOT procedures found in 49 CFR part 7.

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

(1) Searching the Federal eRulemaking Portal (*http://www.regulations.gov*),

(2) Visiting the FAA's Regulations and Policies web page at *http://www.faa.gov/regulations_policies/*, or

(3) Accessing the Government Printing Office's web page at *http://www.gpoaccess.gov/fr/index.html*.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

List of Subjects in 14 CFR Part 33

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 33 of the Federal Aviation Regulations (14 CFR part 33) as follows:

PART 33—AIRWORTHINESS STANDARDS: AIRCRAFT ENGINES

1. The authority citation for part 33 continues to read as follows:

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

2. Section 33.17 is revised to read as follows:

§ 33.17 Fire protection.

(a) The design and construction of the engine and the materials used must minimize the probability of the occurrence and spread of fire during normal operation and failure conditions, and must minimize the effect of such a fire. In addition, the design and construction of turbine engines must minimize the probability of the occurrence of an internal fire that could result in structural failure or other hazardous effects.

(b) Except as provided in paragraph (c) of this section, each external line, fitting, and other component, which contains or conveys flammable fluid during normal engine operation must be fire resistant or fireproof, as applicable. Components must be shielded or located to safeguard against the ignition of leaking flammable fluid.

(c) A tank, which contains flammable fluids and any associated shut-off means and supports, which are part of and attached to the engine, must be fireproof either by construction or by protection unless damage by fire will not cause leakage or spillage of a hazardous quantity of flammable fluid. For a reciprocating engine having an integral oil sump of less than 23.7 liters capacity, the oil sump need not be fireproof or enclosed by a fireproof shield.

(d) An engine component designed, constructed, and installed to act as a firewall must be:

(1) Fireproof,

(2) Constructed so that no hazardous quantity of air, fluid or flame can pass around or through the firewall, and,

(3) Protected against corrosion,

(e) In addition to the requirements of paragraphs (a) and (b) of this section, engine control system components that are located in a designated fire zone must be fire resistant or fireproof, as applicable.

(f) Unintentional accumulation of hazardous quantities of flammable fluid within the engine must be prevented by draining and venting.

(g) Any components, modules, or equipment, which are susceptible to or are potential sources of static discharges or electrical fault currents must be designed and constructed to be properly grounded to the engine reference, in order to minimize the risk of ignition in external areas where flammable fluids or vapors could be present.

Issued in Washington, DC on February 12, 2008.

Dorenda D. Baker,

Deputy Director, Aircraft Certification Service.

[FR Doc. E8–3271 Filed 2–20–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0182; Directorate Identifier 2007–NM–262–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135ER, –135KE, –135KL, and –135LR Airplanes, and Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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

Fuel system reassessment, performed according to RBHA–E88/SFAR–88 (Regulamento Brasileiro de Homologacao Aeronautica 88/Special Federal Aviation Regulation No. 88), requires the inclusion of new maintenance tasks in the Critical Design Configuration Control Limitations (CDCCL) and in the Fuel System Limitations (FSL),

necessary to preclude ignition sources in the fuel system. * * *

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

DATES: We must receive comments on this proposed AD by March 24, 2008.

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1405; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2008–0182; Directorate Identifier 2007–NM–262–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, has issued Brazilian Airworthiness Directive 2007–08–02, effective September 27, 2007 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> Fuel system reassessment, performed according to RBHA–E88/SFAR–88 (Regulamento Brasileiro de Homologacao Aeronautica 88/Special Federal Aviation Regulation No. 88), requires the inclusion of new maintenance tasks in the Critical Design Configuration Control Limitations (CDCCL) and in the Fuel System Limitations (FSL), necessary to preclude ignition sources in the fuel system. * * *

The corrective action is revising the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness (ICA) to incorporate new limitations for fuel tank systems. You may obtain further information by examining the MCAI in the AD docket.

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled "Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements" (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 ("SFAR 88," Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (i.e., type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Relevant Service Information

EMBRAER has issued Sections A2.5.2, Fuel System Limitation Items, and A2.4, Critical Design Configuration Control Limitation (CDCCL), of Appendix 2 of Embraer EMB–135/ERJ–140/EMB–145 Maintenance Review Board Report (MRBR) MRB–145/1150, Revision 10, dated August 4, 2006. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Explanation of Compliance Time

In most ADs, we adopt a compliance time allowing a specified amount of time after the AD's effective date. In this case, however, the FAA has already issued regulations that require operators to revise their maintenance/inspection programs to address fuel tank safety issues. The compliance date for these regulations is December 16, 2008. To

provide for coordinated implementation of these regulations and this proposed AD, we are using this same compliance date in this proposed AD.

Differences Between This AD and the MCAI or Service Information

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

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 704 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $56,320, or $80 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Empresa Brasileira de Aeronautica S.A. (EMBRAER): Docket No. FAA–2008–0182; Directorate Identifier 2007–NM–262–AD.

Comments Due Date

(a) We must receive comments by March 24, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Embraer Model EMB–135ER, –135KE, –135KL, and –135LR airplanes, and Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes; certificated in any category; except for Model EMB–145LR airplanes modified according to Brazilian Supplemental Type Certificate 2002S06–09, 2002S06–10, or 2003S08–01.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (g) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

Subject

(d) Air Transport Association (ATA) of America Code 28: Fuel.

Reason

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

Fuel system reassessment, performed according to RBHA–E88/SFAR–88, requires the inclusion of new maintenance tasks in the Critical Design Configuration Control Limitations (CDCCL) and in the Fuel System Limitations (FSL), necessary to preclude ignition sources in the fuel system. * * *

The corrective action is revising the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness (ICA) to incorporate new limitations for fuel tank systems.

Actions and Compliance

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

(1) The term "MRBR," as used in this AD, means the Embraer EMB–135/ERJ–140/EMB–145 Maintenance Review Board Report (MRBR) MRB–145/1150, Revision 10, dated August 4, 2006.

(2) Before December 16, 2008, revise the ALS of the ICA to incorporate Section A2.5.2, Fuel System Limitation Items, of Appendix 2 of the MRBR. For all tasks identified in Section A2.5.2 of Appendix 2 of the MRBR, the initial compliance times start from the later of the times specified in paragraphs (f)(2)(i) and (f)(2)(ii) of this AD; and the repetitive inspections must be accomplished thereafter at the interval specified in Section A2.5.2 of Appendix 2 of the MRBR, except as provided by paragraphs (f)(4) and (g) of this AD.

(i) The effective date of this AD.

(ii) The date of issuance of the original Brazilian standard airworthiness certificate or the date of issuance of the original Brazilian export certificate of airworthiness.

(3) Before December 16, 2008, or within 90 days after the effective date of this AD, whichever occurs first, revise the ALS of the ICA to incorporate items 1, 2, and 3 of Section A2.4, Critical Design Configuration Control Limitation (CDCCL), of Appendix 2 of the MRBR.

(4) After accomplishing the actions specified in paragraphs (f)(2) and (f)(3) of this AD, no alternative inspections, inspection intervals, or CDCCLs may be used unless the inspections, intervals, or CDCCLs are part of a later revision of Appendix 2 of the MRBR that is approved by the Manager, ANM–116, FAA, or ANAC (or its delegated agent); or unless the inspections, intervals, or CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (g) of this AD.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: The MCAI specifies a compliance date of "Before December 31, 2008" for doing the ALI revisions. We have already issued regulations that require operators to revise their maintenance/inspection programs to address fuel tank safety issues. The compliance date for these regulations is December 16, 2008. To provide for coordinated implementation of these regulations and this AD, we are using this same compliance date in this AD.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1405; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI Brazilian Airworthiness Directive 2007–08–02, effective September 27, 2007; and Sections A2.5.2, Fuel System Limitation Items, and A2.4, Critical Design Configuration Control Limitation (CDCCL), of Appendix 2 of the MRBR; for related information.

Issued in Renton, Washington, on February 13, 2008.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–3190 Filed 2–20–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0194; Directorate Identifier 2007–NM–263–AD]

RIN 2120–AA64

Airworthiness Directives; Embraer Model EMB–135BJ Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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

Fuel system reassessment, performed according to RBHA–E88/SFAR–88 (Regulamento Brasileiro de Homologacao Aeronautica 88/Special Federal Aviation Regulation No. 88), requires the inclusion of new maintenance tasks in the Critical Design Configuration Control Limitations (CDCCL) and in the Fuel System Limitations (FSL), necessary to preclude ignition sources in the fuel system. * * *

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

DATES: We must receive comments on this proposed AD by March 24, 2008.

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1405; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2008–0194; Directorate Identifier 2007–NM–263–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, has issued Brazilian Airworthiness Directive 2007–08–01, effective September 27, 2007 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

Fuel system reassessment, performed according to RBHA–E88/SFAR–88 (Regulamento Brasileiro de Homologacao Aeronautica 88/Special Federal Aviation Regulation No. 88), requires the inclusion of new maintenance tasks in the Critical Design Configuration Control Limitations (CDCCL) and in the Fuel System Limitations (FSL), necessary to preclude ignition sources in the fuel system. * * *

The corrective action is revising the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness (ICA) to incorporate new limitations for fuel tank systems. You may obtain further information by examining the MCAI in the AD docket.

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large

transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled "Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements" (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 ("SFAR 88," Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (i.e., type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Relevant Service Information

EMBRAER has issued Sections A2.5.2, Fuel System Limitation Items, and A2.4, Critical Design Configuration Control Limitations (CDCCL), of Appendix 2 of the Embraer Legacy BJ Maintenance Planning Guide (MPG) MPG–1483, Revision 5, dated March 22, 2007. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Explanation of Compliance Time

In most ADs, we adopt a compliance time allowing a specified amount of time after the AD's effective date. In this case, however, the FAA has already issued regulations that require operators to revise their maintenance/inspection programs to address fuel tank safety issues. The compliance date for these regulations is December 16, 2008. To provide for coordinated implementation of these regulations and this proposed AD, we are using this same compliance date in this proposed AD.

Differences Between This AD and the MCAI or Service Information

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

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 37 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $2,960, or $80 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Empresa Brasileira de Aeronautica S.A. (EMBRAER): Docket No. FAA–2008–0194; Directorate Identifier 2007–NM–263–AD.

Comments Due Date

(a) We must receive comments by March 24, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Embraer Model EMB–135BJ airplanes, certificated in any category.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (g) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

Subject

(d) Air Transport Association (ATA) of America Code 28: Fuel.

Reason

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

Fuel system reassessment, performed according to RBHA–E88/SFAR–88 (Regulamento Brasileiro de Homologacao Aeronautica 88/Special Federal Aviation Regulation No. 88), requires the inclusion of new maintenance tasks in the Critical Design Configuration Control Limitations (CDCCL) and in the Fuel System Limitations (FSL), necessary to preclude ignition sources in the fuel system. * * *

The corrective action is revising the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness (ICA) to incorporate new limitations for fuel tank systems.

Actions and Compliance

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

(1) The term "MPG," as used in this AD, means the Embraer Legacy BJ Maintenance Planning Guide (MPG) MPG–1483, Revision 5, dated March 22, 2007.

(2) Before December 16, 2008, revise the ALS of the ICA to incorporate Section A2.5.2, Fuel System Limitation Items, of Appendix 2 of the MPG. For all tasks identified in Section A2.5.2 of Appendix 2 of the MPG, the initial compliance times start from the later of the times specified in paragraphs (f)(2)(i) and (f)(2)(ii) of this AD; and the repetitive inspections must be accomplished thereafter at the interval specified in Section A2.5.2 of Appendix 2 of the MPG, except as provided by paragraphs (f)(4) and (g) of this AD.

(i) The effective date of this AD.

(ii) The date of issuance of the original Brazilian standard airworthiness certificate or the date of issuance of the original Brazilian export certificate of airworthiness.

(3) Before December 16, 2008, or within 90 days after the effective date of this AD, whichever occurs first, revise the ALS of the ICA to incorporate items 1, 2, and 3 of Section A2.4, Critical Design Configuration Control Limitation (CDCCL), of Appendix 2 of the MPG.

(4) After accomplishing the actions specified in paragraphs (f)(2) and (f)(3) of this AD, no alternative inspections, inspection intervals, or CDCCLs may be used unless the inspections, intervals, or CDCCLs are part of a later revision of Appendix 2 of the MPG that is approved by the Manager, ANM–116, FAA, or ANAC (or its delegated agent); or unless the inspections, intervals, or CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (g) of this AD.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: The MCAI specifies a compliance date of "Before December 31, 2008" for doing the ALI revisions. We have already issued regulations that require operators to revise their maintenance/inspection programs to address fuel tank safety issues. The compliance date for these regulations is December 16, 2008. To provide for coordinated implementation of these regulations and this AD, we are using this same compliance date in this AD. We also included a compliance time of "within 90 days after the effective date of this AD" in paragraph (f)(3) of this AD, rather than "within 180 days after the effective date of this AD," as specified by the MCAI. We have coordinated these compliance times with ANAC.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1405; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI Brazilian Airworthiness Directive 2007–08–01, effective September 27, 2007; and Sections A2.5.2, Fuel System Limitation Items, and A2.4, Critical Design Configuration Control Limitation (CDCCL), of Appendix 2 of the MPG; for related information.

Issued in Renton, Washington, on February 13, 2008.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–3191 Filed 2–20–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0078; Directorate Identifier 2007–NE–40–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc RB211 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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

High pressure (HP) turbine discs recently inspected in accordance with the Engine Manual have exhibited cracks in the disc rim. The discs have failed to meet the inspection acceptance criteria and have been returned to Rolls-Royce for engineering investigation. This investigation has concluded that the cracks have resulted from scores within the cooling air holes in the disc rim that could have been introduced during new part

manufacture or during overhaul of the disc. The engineering investigation has concluded that if this cracking was undetected then it could result in uncontained disc failure and a potential unsafe condition for the aircraft.

We are proposing this AD to prevent uncontained disc failure, possibly resulting in damage to the airplane.

DATES: We must receive comments on this proposed AD by March 24, 2008.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Ian Dargin, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *ian.dargin@faa.gov*; telephone (781) 238–7178, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send us any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA–2007–0078; Directorate Identifier 2007–NE–40–AD" in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD 2006–0180, dated June 26, 2006, for RB211–524 series engines, AD 2006–0181, dated June 26, 2006, for RB211–22B engines, and AD 2006–0182, dated June 28, 2006, for RB211–535 series engines, to correct the same unsafe condition for the specified products. The EASA ADs state:

> HPT discs recently inspected in accordance with the Engine Manual have exhibited cracks in the disc rim. The discs have failed to meet the inspection acceptance criteria and have been returned to Rolls-Royce for engineering investigation. This investigation has concluded that the cracks have resulted from scores within the cooling air holes in the disc rim that could have been introduced during new part manufacture or during overhaul of the disc. The engineering investigation has concluded that if this cracking was undetected then it could result in uncontained disc failure and a potential unsafe condition for the aircraft.

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

Relevant Service Information

Rolls-Royce plc has issued Alert Service Bulletin No. RB.211–72–AE969, dated May 9, 2006. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI ADs.

FAA's Determination and Requirements of This Proposed AD

These products have been approved by the United Kingdom (UK), and are approved for operation in the United States. Pursuant to our bilateral agreement with the UK, they have notified us of the unsafe condition described in the MCAI ADs, and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design. This proposed AD would require initial and repetitive eddy current inspections of HP turbine discs.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 506 products of U.S. registry. We also estimate that it would take about 4 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $161,920.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Rolls-Royce plc: Docket No. FAA–2007–0078; Directorate Identifier 2007–NE–40–AD.

Comments Due Date

(a) We must receive comments by March 24, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Rolls-Royce plc (RR) models RB211–535E4 series, RB211–535E4–B series, RB211–535E4–C series, RB211–535C series, RB211–524 series, and RB211–22B series turbofan engines. These engines are installed on, but not limited to, Boeing 747, 757, and 767, Lockheed L–1011, and Tupulev Tu204 airplanes.

Reason

(d) European Aviation Safety Agency AD 2006–0180, dated June 26, 2006, AD 2006–0181, dated June 26, 2006, and AD 2006–0182, dated June 28, 2006, state:

High pressure (HP) turbine discs recently inspected in accordance with the Engine Manual have exhibited cracks in the disc rim. The discs have failed to meet the inspection acceptance criteria and have been returned to Rolls-Royce for engineering investigation. This investigation has concluded that the cracks have resulted from scores within the cooling air holes in the disc rim that could have been introduced during new part manufacture or during overhaul of the disc. The engineering investigation has concluded that if this cracking was undetected then it could result in uncontained disc failure and a potential unsafe condition for the aircraft.

We are issuing this AD to prevent uncontained disc failure, possibly resulting in damage to the airplane.

Actions and Compliance

(e) Unless already done, perform an initial eddy current inspection (ECI) of the HP turbine disc air cooling holes. Information on ECI of HP turbine disc cooling holes can be found in RR Engine Overhaul Process Manual No. TSD594–J, Overhaul Process 223, dated May 1, 2001.

Initial Inspection for RB211–22B Series Turbofan Engines

(f) For RB211–22B series turbofan engines:

(1) If an installed HP turbine disc has more than 9,500 cycles-since-new (CSN) on the effective date of this AD, then ECI the HP turbine disc by whichever is the soonest of the following conditions:

(i) Within 500 cycles from the effective date of this AD; or

(ii) At the next shop visit where the HP turbine rotor is removed from the combustor outer casing.

(2) If an installed HP turbine disc has 9,500 or fewer CSN on the effective date of this AD, then ECI the HP turbine disc by whichever is the soonest of the following conditions:

(i) Before reaching 10,000 CSN; or

(ii) At the next shop visit where the HP turbine rotor is removed from the combustor outer casing and the HP turbine disc has more than 2,750 CSN.

(3) For HP turbine rotors at shop visit and already removed from the combustor outer casing on the effective date of this AD, ECI the HP turbine disc before reinstalling the HP turbine rotor in the combustor outer casing.

Initial Inspection of RB211–524 Series Turbofan Engines

(g) For RB211–524 series turbofan engines, ECI the HP turbine disc at the soonest of the following after the effective date of the AD:

(1) At the next shop visit where the HP turbine blades are removed from the HP turbine disc and when the HP turbine disc has more than 2,750 CSN.

(2) For HP turbine rotors at shop visit and the HP turbine blades are removed from the HP turbine disc and the HP turbine disc life is more than 2,750 CSN, ECI the turbine disc before reinstalling the HP turbine blades.

Initial Inspection of RB211–535C, –535E4, –535E4–B, and –535E4–C Series Turbofan Engines

(h) For RB211–535C, –535E4, –535E4–B, and –535E4–C series turbofan engines:

(1) If an installed HP turbine disc has 17,500 or fewer CSN on the effective date of this AD, then ECI the HP turbine disc by whichever is the soonest of the following conditions:

(i) Before reaching 18,000 CSN; or

(ii) At the next shop visit where the HP turbine rotor is removed from the combustor outer casing, and the HP turbine disc has 5,000 or more CSN.

(iii) For HP turbine rotors at shop visit on the effective date of this AD that are removed from the combustor outer casing, and that have HP turbine discs with 5,000 or more CSN, ECI the HP turbine disc before reinstalling the HP turbine rotor in the combustor outer casing.

(2) If an installed HP turbine disc has more than 17,500 CSN on the effective date of this AD, then ECI the HP turbine disc by whichever is the soonest of the following conditions:

(i) Within 500 cycles from the effective date of this AD; or

(ii) At the next shop visit where the HP turbine rotor is removed from the combustor outer casing.

(iii) For HP turbine rotors at shop visit on the effective date of this AD that are removed from the combustor outer casing, ECI the HP turbine disc before reinstalling the HP turbine rotor in the combustor outer casing.

HP Turbine Disc Permanent Etching

(i) On successful completion of the initial inspection only, permanently etch NMSB 72–AE969 onto the HP turbine disc, adjacent to the part number.

Repetitive ECI Inspections

(j) Thereafter, perform repetitive ECIs at every shop visit where the HP turbine blades are removed from the HP turbine disc. Information on ECI of HP turbine disc air cooling holes can be found in RR Engine Overhaul Process Manual No. TSD594–J, Overhaul Process 223, dated May 1, 2001.

(k) Alternative Methods of Compliance (AMOCs): The Manager, Engine Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Previous Credit

(l) Initial inspections done before the effective date of this AD on HP turbine discs with a disc life above the minimum threshold (5,000 CSN for the RB211–535 engines and 2,750 CSN for both the RB211–524 and the RB211–22B engines) at the time of inspection, per paragraph 1.C.(2) of RR Alert Service Bulletin No. RB.211–72–AE969, comply with the initial inspection requirements specified in this AD.

Related Information

(m) Refer to EASA AD 2006–0180, dated June 26, 2006, AD 2006–0181, dated June 26, 2006, and AD 2006–0182, dated June 28, 2006, for related information.

(n) Contact Ian Dargin, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *ian.dargin@faa.gov*; telephone 781 238–7178; fax 781 238–7199, for more information about this AD.

Issued in Burlington, Massachusetts, on February 13, 2008.

Peter A. White,

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

[FR Doc. E8–3192 Filed 2–20–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2007–0022; Airspace Docket 07–AEA–07]

Proposed Amendment of Class E Airspace; Waynesburg, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to amend the Class E airspace area at Waynesburg, PA, to accommodate a new Standard Instrument Approach Procedure (SIAP) that has been developed for Green County Airport. As a result, controlled airspace extending upward from 700 feet Above Ground

Level (AGL) needs to be expanded to contain the SIAP and other Instrument Flight Rules (IFR) operations at Green County Airport. The operating status of the airport will change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP. Additional controlled airspace is necessary for the safety and management of IFR operations at Green County, Waynesburg, PA.

DATES: Comments must be received on or before April 7, 2008.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590; telephone: 1–800–647–5527. You must identify the docket number FAA–2007–0022; Airspace Docket 07–AEA–07, at the beginning of your comments. You may also submit comments on the Internet at *http://www.regulations.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

FOR FURTHER INFORMATION CONTACT: Melinda Giddens, System Support, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5610.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, view or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2007–0022; Airspace Docket No. 07–AEA–07." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Federal Register's Web page at *http://www.gpoaccess.gov/fr/index.html*. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to modify Class E airspace at Waynesburg, PA. A new Area Navigation (RNAV) Global Position System (GPS) Runway (RWY) 09 Standard Instrument Approach Procedure (SIAP) has been developed at the Green County Airport. Controlled airspace, known as Class E5 airspace, extending upward from 700 feet or more above the surface of the Earth, is required for instrument flight rule operations and to encompass all SIAPs to the extent possible. Although Class E airspace exists at the airport, it is of insufficient size and needs to be increased from a 6-mile radius to an 8.3-mile radius to incorporate the SIAP. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the Earth are published in Paragraph 6005 of FAA Order 7400.9R, signed August 15, 2007, and effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in the Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies Class E Airspace at Waynesburg, PA.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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

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

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9R, Airspace Designations and Reporting Points, signed August 15, 2007, and effective September 15, 2007, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA PA E5 Waynesburg, PA [Amended]

Green County Airport, PA
(Lat. 39°54'00" N., long. 80°07'59" W.)

That airspace extending upward from 700 feet above the surface of the Earth within an 8.3-mile radius of Green County Airport.

* * * * *

Issued in College Park, Georgia, on January 31, 2008.

Barry A. Knight,

Acting Manager, System Support Group, Eastern Service Center.

[FR Doc. 08–722 Filed 2–20–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 250, 253, 254, 256

[Docket ID MMS–2007–OMM–0059]

RIN 1010–AD11

Oil and Gas and Sulphur Operations in the Outer Continental Shelf-Pipelines and Pipeline Rights-of-Way; Reopening Public Comment Period

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Reopening of Comment Period for Proposed Rulemaking.

SUMMARY: This action reopens the period for submitting comments on the proposed rule published on October 3, 2007. That proposed rule requested comments on the revisions to Outer Continental Shelf pipeline and pipeline rights-of-way regulations. The comment period has been reopened to March 17, 2008. The MMS will hold a public meeting to discuss the proposed rule in the Gulf of Mexico Regional Office on February 22, 2008.

DATES: The comment period for proposed rule AD–11, pipelines and pipeline rights-of-way published on October 3, 2007 (72 FR 56442), is being reopened until March 17, 2008. The MMS may not fully consider comments received after this date.

Public meeting date: February 22, 2008, beginning at 8:30 a.m.

Public meeting location: The meeting will be held at the Gulf of Mexico Regional Office, Minerals Management Service, Room 111, 1201 Elmwood Park Boulevard, New Orleans, Louisiana, 70123–2394. All interested parties are invited to attend. A final agenda and meeting format will be posted on the MMS Web site at *http://www.mms.gov/* under Announcements/Workshops. The MMS encourages written comments responding to this notice or the public meeting discussions.

ADDRESSES: You may submit comments on the rulemaking by any of the following methods. Please use the Regulation Identifier Number (RIN) 1010–AD11 as an identifier in your message. See also Public Availability of Comments under Supplementary Information.

- Federal eRulemaking Portal: *http://www.regulations.gov.* Under the tab "More Search Options," click Advanced Docket Search, then select "Minerals Management Service" from the agency drop-down menu, then click "submit." In the Docket ID column, select MMS–2007–OMM–0059 to submit public comments and to view supporting and related materials available for this rulemaking. 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. The MMS will post all comments.
- Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Attention: Regulations and Standards Branch (RSB); 381 Elden Street, MS–4024, Herndon, Virginia 20170–4817. Please reference "Oil and Gas and Sulphur Operations in the Outer Continental Shelf-Pipelines and Pipeline Rights-of-Way, 1010–AD11" in your comments and include your name and return address.

FOR FURTHER INFORMATION CONTACT: Richard Ensele, Regulations and Standards Branch at (703) 787–1583.

SUPPLEMENTARY INFORMATION: Industry has requested more time to review the proposal and submit comments. Commenters have specifically pointed to the comprehensive nature of the rule and the potential for jurisdictional conflicts between MMS and the Department of Transportation regulations as the reason for requesting additional time. The MMS has agreed to reopen the comment period to March 17, 2008.

Public Availability of Comments

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: February 13, 2008.

C. Stephen Allred,

Assistant Secretary, Land and Minerals Management.

[FR Doc. E8–3201 Filed 2–20–08; 8:45 am]

BILLING CODE 4310–MR–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2005–ME–0008; A–1–FRL–8526–4]

Approval and Promulgation of Air Quality Implementation Plans; Maine; Open Burning Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Maine. This revision limits open burning of construction and demolition debris to on-site burning for the disposal of wood wastes and painted and unpainted wood, and adds restrictions to open burning conducted for training, research and recreational purposes. The revised rule also defines which open-burning recreational activities do not require a permit, such as residential use of outdoor grills and fireplaces, and recreational campfires while the ground is covered in snow. The revised rule eliminates provisions that allowed permits to be issued for open burning of rubbish where no rubbish collection is available or "reasonably located" and where "there is no other suitable method for disposal." In addition, the revised rule includes a reference to reasonable precautions required by Maine statute 38 MRSA section 1296 to prevent the introduction of lead into the environment from lead-based paint. This action will have a beneficial effect on air quality in Maine by reducing emissions of particulate matter, air toxics, and other pollutants, especially from the burning of lead-painted wood, plastics, metals, and other non-wood materials. This action is being taken in accordance with the Clean Air Act.

DATES: Written comments must be received on or before March 24, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2005–ME–0008 by one of the following methods:

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

2. *E-mail: arnold.anne@epa.gov.*

3. *Fax:* (617) 918–0047.

4. *Mail:* "EPA–R01–OAR–2005–ME–0008", Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (mail code CAQ), Boston, MA 02114–2023.

5. *Hand Delivery or Courier:* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, (CAQ), Boston, MA 02114–2023. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

Please see the direct final rule which is located in the Rules Section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Alison C. Simcox, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114–2023, telephone number (617) 918–1684, fax number (617) 918–0684, e-mail *simcox.alison@epa.gov.*

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

For additional information, see the direct final rule located in the Rules Section of this **Federal Register**.

Dated: January 16, 2008.

Robert W. Varney,

Regional Administrator, EPA, New England.

[FR Doc. E8–3302 Filed 2–20–08; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 52

[WCB: WC Docket Nos. 07–243, 07–244; FCC 07–188]

Telephone Number Requirements for IP-Enabled Services Providers; Local Number Portability Porting Interval and Validation Requirements

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Communications Commission (Commission) adopted a Notice of Proposed Rulemaking seeking comment on whether the Commission should extend local number portability (LNP) requirements and numbering related rules, including compliance with N11 code assignments, to interconnected voice over Internet Protocol (VoIP) providers, and whether the Commission should adopt rules specifying the length of porting intervals or other details of the porting process.

DATES: Comments are due on or before March 24, 2008, and reply comments are due on or before April 21, 2008

ADDRESSES: You may submit comments, identified by WC Docket Nos. 07–243 and 07–244, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site: http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- *E-mail: ecfs@fcc.gov,* and include the following words in the body of the message, "get form." A sample form and directions will be sent in response. Include the docket number(s) in the subject line of the message.
- *Mail:* Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.
- *Hand Delivery/Courier:* 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

All submissions received must include the agency name and docket number for this rulemaking, WC Docket Nos. 07–243 and 07–244. All comments received will be posted without change to *http://www.fcc.gov/cgb/ecfs.* For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Melissa Kirkel, Wireline Competition Bureau, (202) 418–1580.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (Notice) in WC Docket Nos. 07–243 and 07–244, FCC 07–188, adopted October 31, 2007, and released November 8, 2007. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document 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 (800) 378–3160 or (202) 863–2893, facsimile (202) 863–2898, or via e-mail at *http://www.bcpiweb.com.* It is also available on the Commission's Web site at *http://www.fcc.gov.*

Public Participation

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments regarding the Notice on or before the dates indicated on the first page of this document. All filings related to this Notice of Proposed Rulemaking should refer to WC Docket No. 07–243 or WC Docket No. 07–244. All filings made in response to the Notice section on interconnected VoIP provider numbering obligations should be filed in WC Docket No. 07–243. All filings made in response to the Notice sections on port request validation and porting intervals should be filed in WC Docket No. 07–244. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

• Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the Federal eRulemaking Portal: *http://www.regulations.gov*. Filers should follow the instructions provided on the Web site for submitting comments.

• ECFS filers must transmit one electronic copy of the comments for WC Docket Nos. 07–243 and 07–244. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov*, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

• Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service 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.

• The Commission's contractor 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.

• U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

Parties should send a copy of their filings to the Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, Room 5–C140, 445 12th Street, SW., Washington, DC 20554, or by e-mail to *cpdcopies@fcc.gov*. Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 488–5300, or via e-mail to *fcc@bcpiweb.com*.

Documents in WC Docket Nos. 07–243, and 07–244 will be available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The documents may also be purchased from BCPI, telephone (202) 488–5300, facsimile (202) 488–5563, TTY (202) 488–5562, e-mail *fcc@bcpiweb.com*.

Synopsis of Notice of Proposed Rulemaking

1. Through this Notice, the Commission considers whether there are additional number administration requirements that the Commission should adopt to benefit customers of telecommunications and interconnected VoIP services. First, the Commission seeks comment on whether it should act to extend other numbering-related obligations to interconnected VoIP providers. Second, the Commission seeks comment on whether it should adopt specific rules regarding the LNP validation process and porting interval lengths.

A. Interconnected VoIP Provider Numbering Obligations

2. The Commission seeks comment on issues associated with the implementation of LNP for users of interconnected VoIP services. The Commission also seeks comment on whether any of its numbering requirements, in addition to LNP, should be extended to interconnected VoIP providers. For example, the Commission seeks comment on whether it should require interconnected VoIP providers to comply with N11 code assignments. The Commission already requires interconnected VoIP providers to supply 911 emergency calling capabilities to their customers whose service connects with the PSTN and to offer 711 abbreviated dialing for access to telephone relay services. Commenters should provide information on the technical feasibility of a requirement to comply with the other N11 code assignments. The Commission also seeks comment on the benefits and burdens, including the burdens on small entities, of requiring interconnected VoIP providers to comply with N11 code assignments or other numbering requirements.

B. LNP Process Requirements

3. As the Commission has found, it is critical that customers be able to port their telephone numbers in an efficient manner in order for LNP to fulfill its promise of giving "customers flexibility in the quality, price, and variety of telecommunications services." Although customers have had the option to port numbers between their telephone service providers for a number of years, the length of time for ports to occur and other difficulties with the porting process may hinder such options. Therefore, the Commission seeks comment on whether it should take steps to mandate or modify certain elements of the porting process to ensure the efficiency and effectiveness of LNP for U.S. telephone consumers.

4. The Commission finds this to be a significant concern both because of the statutory requirement to ensure "the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another," as well as the important role intermodal providers play in telecommunications competition. Indeed, incumbent local exchange carriers (LECs) have sought to rely on the presence of telephone competition from wireless providers and cable operators when seeking relief from regulatory obligations. To help enable such intermodal competition, and the deregulation that can result from such competition, it thus is important for the Commission to ensure the efficiency and effectiveness of LNP, which "eliminates one major disincentive to switch carriers" and thus facilitates "the successful entrance of new service providers." However, the Commission does not limit its inquiry specifically to intermodal LNP but seeks comment on the need for Commission requirements on LNP processes in other contexts as well.

5. The Commission's conclusion that carriers can require no more than four fields for validation of a simple port, and what information those fields should contain, addresses the consideration of the appropriate amount and type of information necessary to effectuate a port. The Commission seeks comments on how the information required for validation fields adopted by the Commission affects the validation process, including any other ways that those validation fields could minimize the error rates or further reduce the amount of information that a porting-in entity must request from the porting-out entity prior to submitting the simple port request. Further, the Commission seeks comment on any other considerations that it should evaluate in the simple port validation process.

6. The evidence in the record also shows that delays in the porting process can arise when the porting-out carrier

fails to identify all errors in a Local Service Request (LSR) at once. If a provider identifies errors one at a time, this necessitates multiple resubmissions of the LSR, and delays the porting process. The Commission agrees with commenters such as AT&T that it may not be possible for providers to identify all errors at once, although the porting process will proceed most efficiently if providers identify as many errors as possible at a given time. The Commission seeks comment on whether it should adopt a requirement that carriers identify all errors possible in a given LSR and describe the basis for rejection when rejecting a port request.

7. Finally, the Commission seeks comment on the benefits and burdens, including the burdens on small entities, of the specific requirements on the validation process proposed above, and any other such requirements.

8. *Porting Intervals.* The Commission tentatively concludes that it should adopt rules reducing the porting interval for simple port requests. The Commission seeks comment on that tentative conclusion, and on it should establish time limits on the porting process for all types of simple port requests (i.e., wireline-to-wireline ports, wireless-to-wireless ports, and intermodal ports) or just certain types of ports. The wireless industry has established a voluntary standard of two and one-half hours for wireless-to-wireless ports. The Commission seeks comment on whether it should adopt a rule codifying this standard.

9. The Commission also tentatively concludes that it should adopt rules reducing the porting interval for wireline-to-wireline and intermodal simple port requests, specifically, to a 48-hour porting interval. As noted above, the wireless industry has been successful in streamlining the validation process for wireless-to-wireless porting, and the Commission encourages the industry to evaluate whether similar streamlining measures would work for intermodal or wireline-to-wireline porting. The Commission notes, moreover, that pending resolution of this rulemaking proceeding, providers remain free to seek enforcement action against a porting-out carrier that requests validation information that appears to obstruct or delay the porting process.

10. For wireline-to-wireline simple ports, the Commission adopted the NANC's 1997 recommendation of a four business day porting interval. This four-day interval also applies to wireline-to-wireless intermodal simple ports. It has been over ten years since the Commission reassessed the porting interval for wireline-to-wireline ports, and commenters suggest that advances in technology allow for the four-day porting interval to be reduced. For intermodal porting intervals, the Commission has twice sought comment on whether the porting interval could be reduced. Most recently, the Commission specifically sought comment on detailed NANC proposals for shortening the intermodal porting interval, which included specific timelines for the porting process.

11. While some commenters advocate retaining the current porting intervals, other providers assert that shorter intervals are possible. For example, Comcast asserts that a "next day" standard for wireline ports that, in most cases, would not exceed 36 hours is more appropriate in light of technological advancements and recent competitive developments. Other commenters recommend refreshing the record in the *Intermodal Number Portability FNPRM* (68 FR 68831, Dec. 10, 2003) and considering the NANC's proposal that would effectively reduce the porting interval to 53 hours. Commenters seeking shorter intervals point out the benefits to consumers and competition arising when ports can occur more quickly.

12. Given that the industry has been unable to reach consensus on an updated industry standard for wireline-to-wireline and intermodal simple ports, the Commission tentatively concludes that it should adopt rules regarding a reduced porting interval and allow the industry to work through the actual implications of such a timeline. In particular, the Commission tentatively concludes that it should adopt a 48-hour porting interval, as it falls between the range of proposed shorter intervals. In setting this interval, the Commission hopes to encourage industry discussion and consensus. The Commission seeks comment on its tentative conclusions, and whether there are any technical impediments or advances that affect the overall length of the porting interval such that it should adopt different porting intervals for particular types of simple ports (e.g., wireline-to-wireline, wireline-to-wireless, wireless-to-wireline). Further, the Commission seeks comment on how it should define the various porting interval timelines in terms of operating hours.

13. Finally, the Commission seeks comment on the benefits and burdens, including the burdens on small entities, of adopting rules regarding porting intervals for all types of simple port requests.

14. The Commission encourages interested parties to take into account the fact that as technologies and business practices evolve, it expects that the porting interval would decrease in order to provide consumers as quick and efficient a porting process as possible. The Commission looks forward to a complete record on the appropriate porting interval consistent with the shortest reasonable time period.

15. *Other LNP Process Issues.* Commenters identify a number of other concerns regarding the LNP process that they assert are hindering the ability of consumers to take advantage of LNP. For example, Charter comments that certain carriers' processes result in cancellation of a subscriber dial tone for port requests that are delayed for operational reasons. Charter also argues that carriers should be: (1) Required to provide the basis for rejecting a port request at the time of that rejection; (2) required to provide affirmative notice of all changes to their porting requirements and process; and (3) prohibited from making ad hoc changes to their procedures. Charter also argues that the Commission should declare that interconnection agreements are not a necessary precondition to effectuating wireline-to-wireline ports. The Commission seeks comment on these and any other concerns regarding the LNP process more generally, including the port validation process and porting intervals for non-simple ports.

C. New Dockets

16. In this Notice, the Commission opens two new dockets—WC Docket No. 07–243 and WC Docket No. 07–244. All filings made in response to the Notice section on interconnected VoIP provider numbering obligations should be filed in WC Docket No. 07–243. All filings made in response to the Notice sections on port request validation and porting intervals should be filed in WC Docket No. 07–244.

Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared the present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities that might result from this Notice of Proposed Rulemaking (Notice). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Notice provided above. The Commission will send a copy of the Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In

addition, the Notice and the IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

2. In this Notice, the Commission considers whether there are additional numbering-related requirements the Commission should adopt to benefit customers of telecommunications and interconnected VoIP services. Specifically, the Commission seeks comment on whether it should extend other LNP requirements and numbering-related rules, including compliance with N11 code assignments, to interconnected VoIP providers. The Commission also seeks comment on whether it should adopt rules specifying the length of the porting intervals or other changes to the LNP validation process, or other details of the porting process. Among other things, the Commission tentatively concludes that it should adopt rules reducing the porting interval for wireline-to-wireline and intermodal simple port requests, specifically, to a 48-hour porting interval. The Commission seeks comment on its tentative conclusions and issues related to its tentative conclusions. For each of these issues, the Commission also seeks comment on the burdens, including those placed on small carriers, associated with corresponding Commission rules related to each issue.

B. Legal Basis

3. The legal basis for any action that may be taken pursuant to this Notice is contained in sections 1, 4(i), 4(j), 251 and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i) through (j), 251, 303(r).

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules May Apply

4. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

5. *Small Businesses.* Nationwide, there are a total of approximately 22.4 million small businesses, according to SBA data.

6. *Small Organizations.* Nationwide, there are approximately 1.6 million small organizations.

7. *Small Governmental Jurisdictions.* The term "small governmental jurisdiction" is defined generally as "governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand." Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States. The Commission estimates that, of this total, 84,377 entities were "small governmental jurisdictions." Thus, the Commission estimates that most governmental jurisdictions are small.

1. Telecommunications Service Entities

a. Wireline Carriers and Service Providers

8. The Commission has included small incumbent local exchange carriers (LECs) in this present RFA analysis. As noted above, a "small business" under the RFA is one that, inter alia, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. The Commission has therefore included small incumbent LECs in this RFA analysis, although the Commission emphasizes that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

9. *Incumbent LECs.* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,303 carriers have reported that they are engaged in the provision of incumbent local exchange services. Of these 1,303 carriers, an estimated 1,020 have 1,500 or fewer employees and 283 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the Commission's action.

10. *Competitive LECs, Competitive Access Providers (CAPs), "Shared-Tenant Service Providers," and "Other Local Service Providers."* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 859 carriers have reported that they are engaged in the provision of either competitive access provider services or competitive LEC services. Of these 859 carriers, an estimated 741 have 1,500 or fewer employees and 118 have more than 1,500 employees. In addition, 16 carriers have reported that they are "Shared-Tenant Service Providers," and all 16 are estimated to have 1,500 or fewer employees. In addition, 44 carriers have reported that they are "Other Local Service Providers." Of the 44, an estimated 43 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, "Shared-Tenant Service Providers," and "Other Local Service Providers" are small entities.

11. *Local Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 184 carriers have reported that they are engaged in the provision of local resale services. Of these, an estimated 181 have 1,500 or fewer employees and three have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by the Commission's action.

12. *Toll Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services. Of these, an estimated 853 have 1,500 or fewer employees and 28 have more than 1,500 employees. Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by the Commission's action.

13. *Payphone Service Providers (PSPs).* Neither the Commission nor the

SBA has developed a small business size standard specifically for payphone services providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 657 carriers have reported that they are engaged in the provision of payphone services. Of these, an estimated 653 have 1,500 or fewer employees and four have more than 1,500 employees. Consequently, the Commission estimates that the majority of payphone service providers are small entities that may be affected by the Commission's action.

14. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 330 carriers have reported that they are engaged in the provision of interexchange service. Of these, an estimated 309 have 1,500 or fewer employees and 21 have more than 1,500 employees. Consequently, the Commission estimates that the majority of IXCs are small entities that may be affected by the Commission's action.

15. *Operator Service Providers (OSPs).* Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 23 carriers have reported that they are engaged in the provision of operator services. Of these, an estimated 22 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that the majority of OSPs are small entities that may be affected by the Commission's action.

16. *Prepaid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 104 carriers have reported that they are engaged in the provision of prepaid calling cards. Of these, 102 are estimated to have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that all or the majority of prepaid calling card providers are small entities that may be affected by the Commission's action.

17. *800 and 800-Like Service Subscribers.* These toll-free services fall within the broad economic census category of Telecommunications Resellers. This category "comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure." The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer employees. Census Bureau data for 2002 show that there were 1,646 firms in this category that operated for the entire year. Of this total, 1,642 firms had employment of 999 or fewer employees, and four firms had employment of 1,000 employees or more. Thus, the majority of these firms can be considered small. Additionally, it may be helpful to know the total numbers of telephone numbers assigned in these services. Commission data show that, as of June 2006, the total number of 800 numbers assigned was 7,647,941, the total number of 888 numbers assigned was 5,318,667, the total number of 877 numbers assigned was 4,431,162, and the total number of 866 numbers assigned was 6,008,976.

b. International Service Providers

18. The Commission has not developed a small business size standard specifically for providers of international service. The appropriate size standards under SBA rules are for the two broad census categories of "Satellite Telecommunications" and "Other Telecommunications." Under both categories, such a business is small if it has $13.5 million or less in average annual receipts.

19. The first category of Satellite Telecommunications "comprises establishments primarily engaged in providing point-to-point telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications." For this category, Census Bureau data for 2002 show that there were a total of 371 firms that operated for the entire year. Of this total, 307 firms had annual receipts of under $10 million, and 26 firms had receipts of $10 million to $24,999,999. Consequently, the Commission estimates that the majority of Satellite Telecommunications firms are small entities that might be affected by the Commission's action.

20. The second category of Other Telecommunications "comprises establishments primarily engaged in (1) providing specialized telecommunications applications, such as satellite tracking, communications telemetry, and radar station operations; or (2) providing satellite terminal stations and associated facilities operationally connected with one or more terrestrial communications systems and capable of transmitting telecommunications to or receiving telecommunications from satellite systems." For this category, Census Bureau data for 2002 show that there were a total of 332 firms that operated for the entire year. Of this total, 259 firms had annual receipts of under $10 million and 15 firms had annual receipts of $10 million to $24,999,999. Consequently, the Commission estimates that the majority of Other Telecommunications firms are small entities that might be affected by the Commission's action.

c. Wireless Telecommunications Service Providers

21. Below, for those services subject to auctions, the Commission notes that, as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

22. *Wireless Service Providers.* The SBA has developed a small business size standard for wireless firms within the two broad economic census categories of "Paging" and "Cellular and Other Wireless Telecommunications." Under both SBA categories, a wireless business is small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 2002 show that there were 807 firms in this category that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. Thus, under this category and associated small business size standard, the majority of

firms can be considered small. For the census category of Cellular and Other Wireless Telecommunications, Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, under this second category and size standard, the majority of firms can, again, be considered small.

23. *Cellular Licensees.* The SBA has developed a small business size standard for wireless firms within the broad economic census category "Cellular and Other Wireless Telecommunications." Under this SBA category, a wireless business is small if it has 1,500 or fewer employees. For the census category of Cellular and Other Wireless Telecommunications, Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, under this category and size standard, the majority of firms can be considered small. Also, according to Commission data, 437 carriers reported that they were engaged in the provision of cellular service, Personal Communications Service (PCS), or Specialized Mobile Radio (SMR) Telephony services, which are placed together in the data. The Commission has estimated that 260 of these are small under the SBA small business size standard.

24. *Paging.* The SBA has developed a small business size standard for the broad economic census category of "Paging." Under this category, the SBA deems a wireless business to be small if it has 1,500 or fewer employees. Census Bureau data for 2002 show that there were 807 firms in this category that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. In addition, according to Commission data, 365 carriers have reported that they are engaged in the provision of "Paging and Messaging Service." Of this total, the Commission estimates that 360 have 1,500 or fewer employees, and five have more than 1,500 employees. Thus, in this category the majority of firms can be considered small.

25. The Commission also notes that, in the *Paging Second Report and Order* (62 FR 11616, Mar. 12, 1997), the Commission adopted a size standard for "small businesses" for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. In this context, a small business is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. The SBA has approved this definition. An auction of Metropolitan Economic Area (MEA) licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 2,499 licenses auctioned, 985 were sold. Fifty-seven companies claiming small business status won 440 licenses. An auction of MEA and Economic Area (EA) licenses commenced on October 30, 2001, and closed on December 5, 2001. Of the 15,514 licenses auctioned, 5,323 were sold. One hundred thirty-two companies claiming small business status purchased 3,724 licenses. A third auction, consisting of 8,874 licenses in each of 175 EAs and 1,328 licenses in all but three of the 51 MEAs commenced on May 13, 2003, and closed on May 28, 2003. Seventy-seven bidders claiming small or very small business status won 2,093 licenses. The Commission also notes that, currently, there are approximately 74,000 Common Carrier Paging licenses.

26. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services (PCS), and specialized mobile radio (SMR) telephony carriers. As noted earlier, the SBA has developed a small business size standard for "Cellular and Other Wireless Telecommunications" services. Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to Commission data, 432 carriers reported that they were engaged in the provision of wireless telephony. The Commission has estimated that 221 of these are small under the SBA small business size standard.

27. *Broadband Personal Communications Service.* The broadband Personal Communications Service (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined "small entity" for Blocks C and F as an entity that has average gross revenues of $40 million or less in the three previous calendar years. For Block F, an additional classification for "very small business" was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years." These standards defining "small entity" in the context of broadband PCS auctions have been approved by the SBA. No small businesses within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F. On March 23, 1999, the Commission re-auctioned 347 C, D, E, and F Block licenses. There were 48 small business winning bidders. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as "small" or "very small" businesses. Subsequent events, concerning Auction 35, including judicial and agency determinations, resulted in a total of 163 C and F Block licenses being available for grant.

28. *Narrowband Personal Communications Services.* The Commission held an auction for Narrowband PCS licenses that commenced on July 25, 1994, and closed on July 29, 1994. A second auction commenced on October 26, 1994 and closed on November 8, 1994. For purposes of the first two Narrowband PCS auctions, "small businesses" were entities with average gross revenues for the prior three calendar years of $40 million or less. Through these auctions, the Commission awarded a total of 41 licenses, 11 of which were obtained by four small businesses. To ensure meaningful participation by small business entities in future auctions, the Commission adopted a two-tiered small business size standard in the *Narrowband PCS Second Report and Order* (65 FR 35875, Jun. 6, 2000). A "small business" is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A "very small business" is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. The SBA has approved these small business size standards. A third auction commenced on October 3, 2001 and closed on October 16, 2001. Here, five bidders won 317 (Metropolitan Trading Areas and nationwide) licenses. Three of these claimed status as a small or very small entity and won 311 licenses.

29. *Rural Radiotelephone Service.* The Commission has not adopted a size standard for small businesses specific to the Rural Radiotelephone Service. A significant subset of the Rural

Radiotelephone Service is the Basic Exchange Telephone Radio System (BETRS). The Commission uses the SBA's small business size standard applicable to "Cellular and Other Wireless Telecommunications," i.e., an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that there are 1,000 or fewer small entity licensees in the Rural Radiotelephone Service that may be affected by the rules and policies adopted herein.

30. *Air-Ground Radiotelephone Service.* The Commission has not adopted a small business size standard specific to the Air-Ground Radiotelephone Service. The Commission will use SBA's small business size standard applicable to "Cellular and Other Wireless Telecommunications," i.e., an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and the Commission estimates that almost all of them qualify as small under the SBA small business size standard.

31. *Offshore Radiotelephone Service.* This service operates on several UHF television broadcast channels that are not used for television broadcasting in the coastal areas of states bordering the Gulf of Mexico. There are presently approximately 55 licensees in this service. The Commission is unable to estimate at this time the number of licensees that would qualify as small under the SBA's small business size standard for "Cellular and Other Wireless Telecommunications" services. Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees.

2. Cable and OVS Operators

32. *Cable Television Distribution Services.* Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers; that category is defined as follows: "This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies." The SBA has developed a small business size standard for this category, which is: All such firms having 1,500 or fewer employees. To gauge small business prevalence for these cable services the Commission must, however, use current census data that are based on the previous category of Cable and Other Program Distribution and its associated size standard; that size standard was: All such firms having $13.5 million or less in annual receipts. According to Census Bureau data for 2002, there were a total of 1,191 firms in this previous category that operated for the entire year. Of this total, 1,087 firms had annual receipts of under $10 million, and 43 firms had receipts of $10 million or more but less than $25 million. Thus, the majority of these firms can be considered small.

33. *Cable Companies and Systems.* The Commission has also developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission's rules, a "small cable company" is one serving 400,000 or fewer subscribers, nationwide. Industry data indicate that, of 1,076 cable operators nationwide, all but eleven are small under this size standard. In addition, under the Commission's rules, a "small system" is a cable system serving 15,000 or fewer subscribers. Industry data indicate that, of 7,208 systems nationwide, 6,139 systems have under 10,000 subscribers, and an additional 379 systems have 10,000–19,999 subscribers. Thus, under this second size standard, most cable systems are small.

34. *Cable System Operators.* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000." The Commission has determined that an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Industry data indicate that, of 1,076 cable operators nationwide, all but ten are small under this size standard. The Commission notes that it neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, and therefore it is unable to estimate more accurately the number of cable system operators that would qualify as small under this size standard.

35. *Open Video Systems (OVS).* In 1996, Congress established the open video system (OVS) framework, one of four statutorily recognized options for the provision of video programming services by local exchange carriers (LECs). The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Because OVS operators provide subscription services, OVS falls within the SBA small business size standard of Cable and Other Program Distribution Services, which consists of such entities having $13.5 million or less in annual receipts. The Commission has certified 25 OVS operators, with some now providing service. Broadband service providers (BSPs) are currently the only significant holders of OVS certifications or local OVS franchises. As of June, 2005, BSPs served approximately 1.4 million subscribers, representing 1.5 percent of all MVPD households. Affiliates of Residential Communications Network, Inc. (RCN), which serves about 371,000 subscribers as of June, 2005, is currently the largest BSP and 14th largest MVPD. RCN received approval to operate OVS systems in New York City, Boston, Washington, DC and other areas. The Commission does not have financial information regarding the entities authorized to provide OVS, some of which may not yet be operational. The Commission thus believes that at least some of the OVS operators may qualify as small entities.

3. Internet Service Providers

36. *Internet Service Providers.* The SBA has developed a small business size standard for Internet Service Providers (ISPs). ISPs "provide clients access to the Internet and generally provide related services such as web hosting, web page designing, and hardware or software consulting related to Internet connectivity." Under the SBA size standard, such a business is small if it has average annual receipts of $23 million or less. According to Census Bureau data for 2002, there were 2,529 firms in this category that operated for the entire year. Of these, 2,437 firms had annual receipts of under $10 million, and an additional 47 firms had receipts of between $10 million and $24,999,999. Consequently, the Commission estimates that the majority of these firms are small entities that may be affected by the Commission's action.

37. *All Other Information Services.* "This industry comprises establishments primarily engaged in providing other information services (except new syndicates and libraries and archives)." The SBA has developed a small business size standard for this category; that size standard is $6.5 million or less in average annual receipts. According to Census Bureau

data for 2002, there were 155 firms in this category that operated for the entire year. Of these, 138 had annual receipts of under $5 million, and an additional four firms had receipts of between $5 million and $9,999,999. Consequently, the Commission estimates that the majority of these firms are small entities that may be affected by the Commission's action.

4. Equipment Manufacturers

38. SBA small business size standards are given in terms of "firms." Census Bureau data concerning computer manufacturers, on the other hand, are given in terms of "establishments." The Commission notes that the number of "establishments" is a less helpful indicator of small business prevalence in this context than would be the number of "firms" or "companies," because the latter take into account the concept of common ownership or control. Any single physical location for an entity is an establishment, even though that location may be owned by a different establishment. Thus, the census numbers provided below may reflect inflated numbers of businesses in the given category, including the numbers of small businesses.

39. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* The Census Bureau defines this category as follows: "This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: Transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment." The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, which is: All such firms having 750 or fewer employees. According to Census Bureau data for 2002, there were a total of 1,041 establishments in this category that operated for the entire year. Of this total, 1,010 had employment of under 500, and an additional 13 had employment of 500 to 999. Thus, under this size standard, the majority of firms can be considered small.

40. *Telephone Apparatus Manufacturing.* The Census Bureau defines this category as follows: "This industry comprises establishments primarily engaged in manufacturing wire telephone and data communications equipment. These products may be standalone or board-level components of a larger system. Examples of products made by these establishments are central office switching equipment, cordless telephones (except cellular), PBX equipment, telephones, telephone answering machines, LAN modems, multi-user modems, and other data communications equipment, such as bridges, routers, and gateways." The SBA has developed a small business size standard for Telephone Apparatus Manufacturing, which is: All such firms having 1,000 or fewer employees. According to Census Bureau data for 2002, there were a total of 518 establishments in this category that operated for the entire year. Of this total, 511 had employment of under 1,000, and an additional 7 had employment of 1,000 to 2,499. Thus, under this size standard, the majority of firms can be considered small.

41. *Semiconductor and Related Device Manufacturing.* Examples of manufactured devices in this category include "integrated circuits, memory chips, microprocessors, diodes, transistors, solar cells and other optoelectronic devices." The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees. According to Census Bureau data, there were 1,032 establishments in this category that operated with payroll during 2002. Of these, 950 had employment of under 500, and 42 establishments had employment of 500 to 999. Consequently, the Commission estimates that the majority of these establishments are small entities.

42. *Computer Storage Device Manufacturing.* These establishments manufacture "computer storage devices that allow the storage and retrieval of data from a phase change, magnetic, optical, or magnetic/optical media." The SBA has developed a small business size standard for this category of manufacturing; that size standard is 1,000 or fewer employees. According to Census Bureau data, there were 170 establishments in this category that operated with payroll during 2002. Of these, 164 had employment of under 500, and five establishments had employment of 500 to 999. Consequently, the Commission estimates that the majority of these establishments are small entities.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

43. Should the Commission decide to adopt any further numbering requirements to benefit customers of telecommunications and interconnected VoIP service, the associated rules potentially could modify the reporting and recordkeeping requirements of certain telecommunications providers and interconnected VoIP service providers. For example, the Commission seeks comment on whether it should require interconnected VoIP providers to comply with N11 code assignments. Additionally, the Commission seeks comment on whether it should adopt a requirement that carriers identify all errors possible in a given LSR and describe the basis for rejection when rejecting a port request. The Commission also tentatively concludes that it should adopt rules reducing the porting interval for wireline-to-wireline and intermodal simple port requests, specifically to a 48-hour porting interval, and seeks comment on whether the Commission should establish time limits on the porting process for all types of simple port requests or just certain types of ports. Further, the Commission seeks comment on whether there are any technical impediments or advances that affect the overall length of the porting interval such that it should adopt different porting intervals for particular types of simple ports. These proposals may impose additional reporting and recordkeeping requirements on entities. Also, the Commission seeks comment on whether any of these proposals place burdens on small entities, and whether alternatives might lessen such burdens while still achieving the goals of this proceeding. Entities, especially small businesses, are encouraged to quantify the costs and benefits or any reporting requirement that may be established in this proceeding.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

44. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include (among others) the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the

use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

45. The Commission's primary objective is to ensure that that consumers benefit from LNP. The Commission seeks comment on the burdens, including those placed on small carriers, associated with related Commission rules and whether the Commission should adopt different requirements for small businesses. Specifically, the Commission seeks comment on the benefits and burdens, including the burdens on small entities, of requiring interconnected VoIP providers to comply with N11 code assignments and other numbering requirements. The Commission also seeks comment on the benefits and burdens, including the burdens on small entities, of the specific requirements on the validation process proposed in the Notice and any other such requirements. Further, the Commission seeks comment on the benefits and burdens, including the burdens on small entities, of adopting rules regarding porting intervals for all types of simple port requests.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

46. None.

Initial Paperwork Reduction Act of 1995 Analysis

47. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Ordering Clauses

It is ordered that pursuant to the authority contained in sections 1, 4(i), 4(j), 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)–(j), 251, 303(r), the Notice of Proposed Rulemaking in WC Docket Nos. 07–243 and 07–244 is adopted.

It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking, including the two Final Regulatory Flexibility Analyses and the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–3129 Filed 2–20–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 08–274; MB Docket No. 08–12; RM–11414]

Radio Broadcasting Services; Dededo, GU

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Moy Communications, Inc. ("Petitioner") proposing the allotment of Channel 243C1 at Dededo, Guam, as the second local aural transmission service at Dededo. The proposed coordinates are 13–29–17 NL and 144–49–35 WL, with a site restriction of 3.2 kilometers (2 miles) south of Dededo, Guam.

DATES: Comments must be filed on or before March 24, 2008, and reply comments on or before April 8, 2008.

ADDRESSES: Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the Petitioner's counsel as follows: Michael D. Basile, Esq., DOW LOHNES PLLC; 1200 New Hampshire Avenue, NW., Suite 800; Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, MB Docket No. 08–12, adopted January 30, 2008, and released February 1, 2008. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Information Center, 445 Twelfth Street, SW., Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *www.BCPIWEB.com*. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR Section 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 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 Guam, is amended by adding Dededo, Channel 243C1.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E8–3225 Filed 2–20–08; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 73, No. 35
Thursday, February 21, 2008

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

February 14, 2008.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Office of the Chief Economist

Title: Guidelines for Designating Biobased Products for Federal Procurement.

OMB Control Number: 0503–0011.

Summary of Collection: Section 9002 of the Farm Security and Rural Investment Act (FSRIA) of 2002 provides for a preferred procurement program under which Federal agencies are required to purchase biobased products, with certain exceptions. Items (which are generic groupings of products) are designated by rulemaking for preferred procurement. To qualify items for procurement under this program, the statute requires that the Secretary of Agriculture consider information on the availability of items, the economic and technological feasibility of using such items and the life cycle costs of using such items. In addition, the Secretary is required to provide information on designated items to Federal agencies about the availability, relative price, performance, and environmental and public health benefits of such items and where appropriate shall recommend the level of biobased material to be contained in the procured product.

Need and Use of the Information: The Office of Energy Policy and New Uses (OEPNU) and the Center for Industrial Research and Service at Iowa State University will interact with manufacturers and venders to gather such information and material for testing, as may be required for designation of items for preferred procurement by Federal agencies. The information collected will be gathered using a variety of methods, including face to face visits with a manufacturer or vendor, submission by manufacturers and vendors of information electronically to OEPNU, and survey instruments filled out by manufacturers and vendors and submitted to OEPNU.

Description of Respondents: Business or other for-profit.

Number of Respondents: 138.

Frequency of Responses: Reporting: Other (once).

Total Burden Hours: 14,387.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E8–3168 Filed 2–20–08; 8:45 am]

BILLING CODE 3410–GL–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

February 14, 2008.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

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displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Potato Cyst Nematode; Quarantine and Regulations.

OMB Control Number: 0579–0322.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701–7772), The Secretary of Agriculture is authorized to prohibit or restrict the importation, entry, or movement of plants and plant pests to prevent the introduction of plant pests into the United States or their dissemination within the United States. The Animal and Plant Health Inspection Service (APHIS) amended the "Domestic Quarantine Notices" in 7 CFR Part 301 by adding a new subpart, "Potato Cyst Nematode (PCN)." PCN is a soil-borne pest and is typically spread by the movement of infested soil, either soil itself or soil adhering to plants, farm equipment, or other articles.

Need and Use of the Information: APHIS will collect information using certificates or limited permits and compliance agreements to prevent the spread of PCN and to ensure that regulated articles can be moved safely from the quarantined area without spreading PCN.

Description of Respondents: Farms; business or other for-profit.

Number of Respondents: 400.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 822.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E8–3169 Filed 2–20–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

February 14, 2007.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Farm Service Agency

Title: Request for Aerial Photography.

OMB Control Number: 0560–0176.

Summary of Collection: The Farm Service Agency (FSA) Aerial Photography Field Office (APFO) has the authority to coordinate aerial photography work in USDA, develop and carry out aerial photography and remote sensing programs and the Agency's aerial photography flying contract programs. The film APFO secures is public domain and reproductions are available at cost to any customer with a need. The FSA–441, Request for Aerial Imagery, is the form APFO supplies to its customers when placing an order for aerial photography products and services.

Need and Use of the Information: FSA will collect the name, address, contact name, telephone, fax, e-mail, customer code, agency code, purchase order number, credit card number/exp. date and amount remitted/PO amount. Customers have the option of placing orders by mail, fax, telephone, walk-in or floppy disk. Furnishing this information requires the customer to research and prepare their request before submitting it to APFO.

Description of Respondents: Farms; Individuals or household; business or other for-profit; Federal Government; State, Local or Tribal Government; not-for-profit institutions.

Number of Respondents: 4,500.

Frequency of Responses: Reporting; other (when ordering).

Total Burden Hours: 3,100.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E8–3170 Filed 2–20–08; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Dixie National Forest, UT; Tropic to Hatch 138kV Transmission Line Project

AGENCY: Forest Service, United States Department of Agriculture.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Supervisor of the Dixie National Forest gives notice of intent to prepare an Environmental Impact Statement to address potential effects of a proposed project by Garkane Energy Cooperative (Garkane) to construct, operate and maintain a 138 kilovolt (kV) electric transmission line requiring a Special Use Authorization, Grant of Right-of-Way, and/or Special Use Permit for a Right-of-Way. The proposed project will include the construction of a 138kV transmission line, associated substations, access roads and the removal and reclamation of a portion of the existing transmission line. The proposed action would cross lands administered by the Forest Service, Bureau of Land Management, State and private. If approved, the proposed project would require amending the Grand Staircase-Escalante National Monument Management Plan to allow a utility right-of-way in the primitive management zone adjacent to an existing utility right-of-way.

Dependant upon the final location of the transmission line alignment, the Dixie National Forest Plan may need amending to adjust or modify the scenic integrity objectives. The Dixie National Forest will serve as the lead agency. The National Park Service and the Bureau of Land Management Kanab Field Office and Grand Staircase-Escalante National Monument will participate as cooperating agencies, and each agency will issue separate decisions based on the analysis. The Utah State Institutional Trust Lands have been invited as a cooperating agency.

DATES: Comments concerning the scope of the analysis should be received

within 30 days from date of publication of this notice in the **Federal Register** to be most useful. The Draft Environmental Impact Statement is scheduled for release in spring 2009, and the Final Environmental Impact Statement is scheduled for completion in summer 2009.

ADDRESSES: Send written comments to Ms. Susan Baughman, Dixie National Forest, USDA Forest Service, Tropic to Hatch 138kV Transmission Line Project EIS Project Leader, 1789 N. Wedgewood Lane, Cedar City, UT 84720. Phone: (435) 865–3700; Fax: (435) 865–3791; E-mail: *tropic_to_hatch_transmission_line_eis_comments@fs.fed.us.* E-mailed comments must be submitted in MS Word (*.doc) or rich text format (*.rtf) and should include the project name in the subject line. Written comments may also be submitted at the above address during regular business hours of 8 a.m. to 5 p.m., Monday-Friday.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Baughman, Tropic to Hatch 138kV Transmission Line Project, EIS Project Leader, Dixie National Forest (contact information listed above).

SUPPLEMENTARY INFORMATION: Garkane delivers propane and electric service to more than 11,000 customers in northern Arizona and southern Utah including the project area. Growth in Garfield and Kane counties has increased electrical demand. Garkane, which owns, operates and maintains the electric delivery systems in this area, has found the existing system insufficient to meet electrical demand without the operation of temporary diesel generators. The proposed project involves the construction, operation and maintenance of a 138kV transmission line from Tropic to Hatch in Garfield County, Utah, and a new substation and expansion of the Hatch Substation to serve existing and planned electric loads in the region. Currently a 138kV transmission line provides connection from the Glen Canyon Dam to the Tropic area; however, only a 69kV transmission line provides connection between the Tropic and Hatch substations. The 69kV transmission system is Garkane's main electrical supply to the area west of Tropic and is insufficent to provide power equal to the electrical demand in that area. The existing 69kV electrical transmission system is operating at its capacity and cannot be modified to carry higher voltages due to physical limitations of the pole structures. The proposed 138kV electrical system improvement would provide a cost-effective solution to adequately address current demands and provide capacity for the foreseeable future. A special use authorization and right-of-way must be acquired or amended to allow the construction, maintenance and operation of the new transmission line. Substations would be developed on private land as part of the project.

The new transmission line will be a single 138kV circuit supported by wood pole H-frame structures approximately 60 feet tall. The proposed project involves the construction of access roads in portions of the alignment where a suitable road is not available and where development of an access road is permitted by the authorizing agency. Access roads would be used for installation of wood transmission structures, conductors, and overhead ground wires, removal of poles and conductors, and for maintenance and inspection activities. In limited areas where vehicle access is not feasible due to topographical constraints and/or agency requirements, the alignment would be accessed via helicopter, mule, horse, all-terrain vehicle, and/or foot. In order to accomplish the planned activities, Garkane will require a 100 foot-wide permanent right-of-way. In addition, temporary use permits would be needed for several 125 by 400 foot pulling and splicing locations and turning structure locations, and for approximately eight 200 by 600 foot temporary staging locations. Project construction activities and overland access along the proposed project alignment will be conducted within the proposed 100 foot-wide right-of-way and the temporary use permit areas.

The proposed 138kV transmission line would originate at a proposed East Valley Substation, located near Tropic, Utah and terminate at the existing Hatch Substation near Hatch, Utah, along U.S. Route 89 and would extend approximately 31 miles. The project would involve various private land owners as well as jurisdictions managed by the State of Utah; Dixie National Forest; and Bureau of Land Management's Kanab Field Office and Grand Staircase-Escalante National Monument. Development of the proposed action would include the removal of the existing transmission line between the Bryce Canyon Substation and Hatch Mountain Switch Station through Red Canyon. One potential alternative would parallel an existing line through Bryce Canyon National Park.

The Bureau of Land Management planning regulations (43 CFR 1600) require the preparation of planning criteria to guide the development of resource management plan amendments. Planning criteria ensure that plans are tailored to the identified issues and ensure that unnecessary data collection and analysis are avoided.

These general planning criteria will be used to develop a Grand Staircase-Escalante National Monument Management Plan amendment for the Tropic to Hatch 138kV Transmission Line Project. The planning criteria are as follows:

- The plan amendment will only consider adding one new utility right-of-way in the primitive zone adjacent to an existing utility right-of-way.
- It will be completed in compliance with the Federal Land Policy and Management Act and all other applicable laws.
- It will meet the intent of the Proclamation that established Grand Staircase-Escalante National Monument which protects objects of geological, paleontological, archaeological, biological, and historic values within the Monument.

Pursuant to Section 102(2)(c) of the National Environmental Policy Act and 42 U.S.C. 4321 *et seq.*, the Forest Service, Bureau of Land Management and National Park Service will be directing a third-party contractor in the preparation of the Environmental Impact Statement on the impacts of the proposed action.

Purpose and Need for Action

Growth in Garfield and Kane counties has increased electrical demand. The growth in this area has resulted in a 66 percent increase in the electrical demand during the past five years. This has caused an overloading of the transmission lines and a decrease in the reliability of the electrical system. Garkane, which owns, operates and maintains the electric delivery systems in this area, has found the existing system insufficient to meet electrical demand without operation of temporary diesel generators.

Currently a 138kV transmission line provides connection from the Glen Canyon Dam to the Tropic area, however only a 69kV transmission line provides connection between the Tropic and Hatch substations. The 69kV transmission system is Garkane's main electrical supply to the area west of Tropic and is insufficient to provide power equal to the electrical demand in that area. The existing 69kV electrical transmission system is operating at its capacity and cannot be modified to carry higher voltages due to physical limitations of the pole structures. The proposed project is needed to bring this available energy from the Tropic area to the Hatch area where the electric demands are increasing. The proposed

electrical system improvement will provide a cost-effective solution to adequately address both current demands and provide capacity for the foreseeable future. A right-of-way must be acquired or amended to allow the construction, maintenance and operation of the new transmission line. Substations will be developed on private land as part of the project. Special use authorizations and rights-of-way are needed to allow Garkane to upgrade the current electrical service from Tropic to Hatch, Garfield County, Utah to meet current and future electrical demands.

Proposed Action

The Forest Supervisor of the Dixie National Forest and the Utah State Director of the Bureau of Land Management propose to conduct analysis and decide whether to grant the necessary Special Use Authorization and Right-of-Way permits to Garkane to construct, operate and maintain a 138kV transmission line and all associated features from Tropic to Hatch in Garfield County, Utah. The proposed project would require amending the Grand Staircase-Escalante National Monument Management Plan to allow a utility right-of-way in the primitive zone adjacent to an existing utility right-of-way. Dependant upon the final location of the transmission line alignment, the Dixie National Forest Plan may need to be amended to adjust or modify the scenic integrity objectives.

The proposed corridor originates on private land at the proposed East Valley Substation and extends northeast following East Valley Road to an existing Rocky Mountain Power 230kV transmission line corridor. The project route then parallels the south side of the Rocky Mountain Power 230kV Transmission Line to the northwest through Cedar Fork Canyon. As the project route exits the Canyon on the Paunsaugunt Plateau, it diverges from the Rocky Mountain Power 230kV Transmission Line corridor and extends east across John's Valley for approximately seven miles. At this point, the corridor turns south for approximately two miles crossing State Route 12 near the Bryce Canyon Pines Motel. The route then extends west through Johnson Bench until it intersects Forest Service Road 1150, and then parallels Forest Service Road 1150 to the head of the Hillsdale Canyon. The project route continues through a designated utility corridor west down the canyon to Forest Road 223 and turns north for approximately 0.5 mile. At this point, the project route leaves the road and extends due west across Long Valley paralleling section lines, and eventually crossing U.S. Route 89 where it then turns to the southwest for approximately two miles to the Hatch Substation. The proposed line would cross approximately 15 miles of National Forest, 3.67 miles of Grand Staircase-Escalante National Monument, 3.53 miles of Bureau of Land Management Kanab Field Office, 7.27 miles of State, and 1.76 miles of private lands.

Legal description for the project route corridor is as follows: Sections 27–29, 31, 32, 34, and 35, T35S, R3W; sections 34–36, T35S, R4W; sections 7, 17, 18, 20, 28, 29, 32, and 33, T36S, R2W; sections 2, 11, and 12, T36S, R3W; sections 3, 4, and 7–9, T36S, R4W; sections 8, 9, and 11–16, T36S, R4.5W; and sections 11–16, and 21, T36S, R5W.

The new transmission line will be a single 138kV circuit supported by wood pole H-frame structures approximately 60 feet tall. The proposed project involves the construction of access roads in portions of the alignment where a suitable road is not available and where development of an access road is permitted by the authorizing agency. Access roads would be used for installation of wood transmission structures, conductors, overhead ground wires, removal of poles and conductors, and for maintenance and inspection activities. In limited areas where vehicle access is not feasible due to topographical constraints and/or agency requirements, the alignment would be accessed via helicopter, mule, horse, all-terrain vehicle, and/or foot. In order to accomplish the planned activities, Garkane will require a 100 foot-wide permanent right-of-way. In addition, temporary use permits will be needed for 125 by 400 foot areas at pulling and splicing locations at turning structures and for approximately eight 200 by 600 feet areas for temporary staging activities. Project construction activities and overland access along the proposed project alignment will be conducted within the proposed 100 foot-wide right-of-way and temporary use permit areas.

Development of the proposed action would include the removal and reclamation of the existing transmission line between the Bryce Canyon Substation and the Hatch Mountain Switch Station through Red Canyon.

Possible Alternatives

All alternatives studied in detail must fall within the scope of the purpose and need for action and will generally tier to and comply with the Dixie National Forest Land and Resource Management Plan (1986), Grand Staircase Escalante National Mounment Management Plan (1999), Cedar, Beaver, Garfield, Antimony Resource Management Plan (1986), and if necessary the Bryce Canyon National Park General Management Plan (1987) and National Park Service Management Policies (2006). Law requires evaluation of a "no-action alternative."

A possible alternative would be to build the transmission line roughly parallel to the existing 69kV transmission line corridor. The current 69kV line would need to remain in place until such time as the upgraded line is energized. This alternative would originate at the proposed East Valley Substation and extend generally west though Tropic, Utah crossing State Route 12, continuing approximately three miles through Bryce Canyon National Park with 1.2 miles of new alignment onto the Paunsaugunt Plateau to the Bryce Substation near the Ruby's Inn area. The route would then parallel the existing line across the Paunsaugunt Plateau in a northwest direction to Red Canyon where it would parallel the existing line through Red Canyon into Long Valley, cross U.S. Route 89 to the Hatch Mountain Switch Station. From the switch station, the route would parallel the existing line south to the Hatch Substation. This alternative would remove and reclaim the portion of the existing 69kV line between the Tropic Substation and Hatch Mountain Switch Station. The Tropic and Bryce substations would need to be expanded, and probably relocated. In limited areas where vehicle access is not feasible due to topographical constraints and/or agency requirements, the alignment would be accessed via helicopter, mule, horse, all-terrain vehicle, and/or foot.

The legal description for the alternative corridor is as follows: Sections 31 and 32, T35S, R4W; sections 26–28, 30, 35, and 36, T35S, R4.5W; sections 25–27, 33, and 34, T35S, R5W; sections 31 and 32, T36S, R2W; sections 16–18, 21–23, 25, 26, and 36, T36S, R3W; sections 3–5, and 10–13, T36S, R4W; and sections 4, 9, 16, and 21, T36S, R5W. Additional alternatives may be developed based on scoping comments.

Lead and Cooperating Agencies

The Forest Service is the lead agency. The Bureau of Land Management and National Park Service will participate as cooperating agencies. The Utah State Institutional Trust Lands have been invited to be a cooperating agency.

Responsible Officials

Robert G. MacWhorter, Forest Supervisor, Dixie National Forest, 1789

N. Wedgewood Lane, Cedar City, Utah 84720.

Selma Sierra, Utah BLM State Director, P.O. Box 45155, Salt Lake City, Utah 84145–0155.

Mike Snyder, Regional Director, National Park Service Regional Office, 12795 West Alameda Pkwy, P.O. Box 25287, Lakewood, Colorado 80225.

Nature of Decisions To Be Made

The responsible officials will decide whether to adopt and implement the proposed action, an alternative to the proposed action, or take no action.

The Forest Supervisor, Dixie National Forest will decide whether to issue a Special Use Authorization for the construction, operation and maintenance of a 138kV transmission line from Tropic to Hatch, Utah. The Forest Service may propose to amend the Forest Plan to adjust the scenic integrity objective if necessary depending on route alignment and impact analysis. The Bureau of Land Management State Director will decide whether approve an amendment to the Grand Staircase-Escalante National Monument Management Plan necessary to issue a right-of-way for the construction operation and maintenance of a 138kV transmission line from Tropic to Hatch, Utah.

The National Park Service Regional Director would decide whether to issue a Special Use Permit for a right-of-way for the construction, operation and maintenance of a 138kV transmission line through Bryce Canyon National Park if an alternative through the park is selected.

Scoping Process

The first formal opportunity to comment on the Tropic to Hatch 138kV Transmission Line Project is during the scoping process (40 CFR 1501.7), which begins with the issuance of this Notice of Intent. Mail comments to: Ms. Susan Baughman, Dixie National Forest, 1789 N. Wedgewood Lane, Cedar City, Utah 84720. E-mail comments can be sent to: *tropic_to_hatch_transmission_line_eis_comment@fs.fed.us.*

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.

The Forest Service is inviting Federal, State and local agencies, the public, and other interested parties to provide comments, suggestions and input regarding the nature and scope of the environmental, social and economic issues, and possible alternatives related to the Tropic to Hatch 138kV Transmission Line Project. The scoping process for this Environmental Impact Statement will include two public meetings for interested agencies and the public to submit written concerns and issues they believe should be addressed. Comments concerning the scope of the analysis should be received within 30 days from date of publication of this notice in the **Federal Register** to be most useful.

A series of public opportunities are scheduled to describe the proposal and to provide an opportunity for public input. Two scoping meetings are planned:

March 12, 2008: 6 p.m. to 8 p.m., Panquitch Library, 25 South 200 East, Panguitch, Utah 84759.

March 13, 2008: 6 p.m. to 8 p.m., Cannonville Visitor Center, 10 Center Street, Cannonville, Utah 84718.

Written comments will be accepted at these meetings. The Forest Service will work with tribal governments to address issues that would significantly or uniquely affect them.

Preliminary Issues

Issues that may be analyzed in all alternatives include: Effects on flora and fauna (e.g., threatened and endangered species, sensitive species, and management indicator species); effects on scenic and visual resources; effects on cultural and paleontological resources; effects on upland vegetation; effects on Forest Service inventoried roadless areas and Grand Staircase-Escalante National Monument primitive management zones; and effects on noxious weeds and invasive species. Specific issues will be developed through review of public comments and internal review.

Permits or Licenses Required

It is assumed applications will be filed with affected agencies as necessary. Currently, alternative corridors cross lands managed by the Forest Service, National Park Service, and Grand Staircase-Escalante National Monument. The entitlements required from each Federal agency are:

- Forest Service—Special Use Authorization
- Bureau of Land Management—Grant of Right-of-Way
- Grand Staircase-Escalante National Monument—Grant of Right-of-Way
- National Park Service—Special Use Permit for a Right-of-Way, if applicable.

Comment Requested

This Notice of Intent initiates the scoping process which guides the development of the environmental impact statement. Consequently site-specific comments or concerns that are tied directly to the proposed action are the most important types of information needed for this Environmental Impact Statement.

Early Notice of Importance of Public Participation in Subsequent Environmental Review

A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be at least 45 days from the date the Environmental Protection Agency publishes the Notice of Availability in the **Federal Register**. If a Grand Staircase-Escalante National Monument Management Plan amendment is required, the comment period would be 90 days.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 [1978].* Also, environmental objections that could be raised at the draft environmental impact statement stage, but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel, 803 F.2d 1016, 1022 [9th Cir. 1986] and Wisconsin Heritages, Inc.* v. *Harris, 490 F. Supp. 1334, 1338 [E.D. Wis. 1980].* Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final Environmental Impact Statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the Draft Environmental Impact Statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the Draft Environmental

Impact Statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21.

Dated: February 14, 2008.

Robert G. MacWhorter,

Forest Supervisor.

[FR Doc. E8–3194 Filed 2–20–08; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Office of the Secretary, Office of Civil Rights.

Title: Complaint of Employment Discrimination Based on Sexual Orientation against the Department of Commerce.

OMB Control Number: None.

Form Number(s): CD–545.

Type of Request: Regular submission.

Burden Hours: 10.

Number of Respondents: 20.

Average Hours Per Response: 30 minutes.

Needs and Use: Pursuant to Executive Order 11478 and Department of Commerce Administrative Order (DAO) 215–11, an employee or applicant for employment with the Department of Commerce who alleges that he or she has been subjected to discriminatory treatment based on sexual orientation by the Department of Commerce or one of its sub-agencies, must submit a signed statement that is sufficiently precise to identify the actions or practices that form the basis of the complaint. Through use of this standardized form, the Office of Civil Rights proposes to collect the information required by the Executive Order and DAO in a uniform manner that will increase the efficiency of complaint processing and trend analyses of complaint activity.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via e-mail at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent to David Rostker, OMB Desk Officer, fax number (202) 395–7258 or via e-mail at *David_Rostker@omb.eop.gov*.

Dated: February 14, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–3158 Filed 2–20–08; 8:45 am]

BILLING CODE 3510–BP–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Field Representatives/Enumerators Exit Questionnaire

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before April 21, 2008.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Darlene Moul, Census Bureau/Field Division, Room 5H051, Washington, DC 20233, or 301–763–1935, or via the Internet at *darlene.a.moul@census.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

In a continuous effort to devise policies and practices aimed at reducing turnover among interviewers, the Census Bureau collects data on the reasons interviewers voluntarily quit their jobs with the Census Bureau. The exit questionnaires, BC–1294 and BC–1294(D), are the instruments used to collect this data from a sample of former current survey interviewers (field representatives) and decennial census interviewers (enumerators/listers), respectively. Both forms ask questions about the factors that affected an interviewer's decision to voluntarily leave Census Bureau employment. Since the nature of census enumerator work differs from current survey interviewing, we created two questionnaires that are tailored to the operational differences. While the forms cover the same topics, the questions and response choices on the BC–1294 and BC–1294(D) reflect the differences in the current survey and decennial interviewing operations.

Because of both the monetary cost associated with turnover and the potential impact on data quality, the retention of trained field interviewing staff is a major concern for the Census Bureau. Consequently the goal or purpose of the exit questionnaires is to identify the reasons for interviewer turnover and determine what the Census Bureau might have done, or can do, to influence interviewers not to leave. Therefore, the exit questionnaire seeks reasons interviewers quit, inquires about motivational factors that would have kept the interviewers from leaving, identifies training program strengths and areas for improvement, and explores the impact of automation and the influence of pay and other working conditions on turnover. The information provided by respondents to the exit questionnaire provides insight on the measures the Census Bureau might take to decrease turnover, and is useful in helping to determine if the reasons for interviewer turnover appear to be systemic or localized.

To accomplish the goal of reducing interviewer turnover, Census Bureau planners and decision makers must fully understand the relative importance and interaction of possible contributory factors. From both the BC–1294 and BC–1294(D), we have learned that the causes of interviewer turnover are often

a combination of reasons rather than one single reason. We have also learned that there are some reasons for turnover which are within the Census Bureau's control and some which are not. This data is not available from any other source. The exit questionnaire is the only instrument that solicits the information we need to answer our questions concerning the impact of the various factors on Census Bureau interviewer turnover.

As the environment in which surveys take place, the nature of surveys conducted, and the characteristics of our labor force continue to change, it is important that we continue to examine the interviewers' concerns about the job of a Census Bureau interviewer. The exit questionnaire has proven to be very useful and, therefore, we want to continue to use it. The data we collect from current survey interviewers and enumerators/listers during the 2010 decennial census will help the Census Bureau develop plans to reduce turnover. These results will also allow for better informed management decisions regarding the future field work force and the implementation of more effective recruitment, pay plans, interviewer training, and retention strategies.

II. Method of Collection

The exit questionnaire will be administered by telephone. This methodology is employed due to the nature of the questions, which may require probing to obtain or clarify answers. In addition, telephone methodology has historically yielded response rates that are greater than those obtained from similar mail out/mail back methodologies, especially when the collection interval is relatively short, and the audience is former employees.

A sample of former employees will be called and asked a series of questions about when and why they voluntarily quit their job. The sample will not include interviewers (current survey or decennial) who have been terminated for cause. Interviews with former field representatives should take approximately seven (7) minutes. Because of the nature of some of the questions on the BC–1294(D), interviews with former enumerators/listers should take approximately ten (10) minutes. We estimate that interviews will be conducted with a total of 500 field representatives and 1,000 enumerators on a yearly basis.

For Former Field Representatives: Approximately every month, a sample of one-half of all interviewers who voluntarily resigned, within a given sampling period, will be contacted by telephone to complete a questionnaire. The sample size will vary since it is dependent on the universe size, which varies from one sampling period to the next.

For Former 2010 Census Enumerators and Listers: Beginning approximately two weeks after the start of decennial field operations (Address Canvassing, Update/Enumerate and Nonresponse-Followup), all enumerators or listers who have been in a continuous non-pay status for a period of two weeks will be contacted by telephone and asked to complete a questionnaire.

III. Data

OMB Control Number: 0607–0404.
Form Number: BC–1294, BC–1294(D).
Type of Review: Regular submission.
Affected Public: Former Census Bureau Interviewers (Field Representatives and Enumerators/Listers).
Estimated Number of Respondents: 500 Former Current Survey Interviewers; 1000 Former 2010 Census Enumerators/Listers.
Estimated Time per Response: Seven (7) minutes for Former Current Survey Interviewers; Ten (10) minutes for Census Enumerator/Listers.
Estimated Total Annual Burden Hours: 226 hours (59 hours for Current Survey Interviewers; 167 hours for Census Enumerators/Listers).
Estimated Total Annual Cost: Approximately $4,000 for the BC–1294. Additional cost for administering the BC–1294(D) during decennial operations is approximately $8,000. The Census Bureau will bear this cost. There is no cost to respondents other than their time.
Respondent's Obligation: Voluntary.
Legal Authority: Title 15 U.S.C., section 3101 and Title 13, U.S.C. section 23.

IV. Request for Comments

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

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

Dated: February 12, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–2929 Filed 2–20–08; 8:45 am]
BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Proposed Information Collection; Comment Request; Award for Excellence in Economic Development

AGENCY: Economic Development Administration, Commerce.

ACTION: Notice.

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

DATES: Written comments must be submitted on or before April 21, 2008.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Patty Sheetz, Director, Legislative & Intergovernmental Affairs Division, Room 7816, Economic Development Administration, Washington, DC 20230, telephone (202) 482–5842.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Economic Development Administration (EDA) provides a broad range of economic development assistance to help distressed communities design and implement effective economic development strategies. Part of this assistance includes disseminating information about best practices and encouraging collegial importance. In order to make an award selection, EDA must collect two kinds of information: (a) Identifying the nominee and contacts within the

organization being nominated and (b) explaining why the nominee should be given the award. The information will be used to determine those applicants best meeting the pre-announced selection criteria. The use of a nomination form standardizes and limits the information collected as part of the nomination process. This makes the competition fair and eases any burden on applicants and reviewers alike. Participation in the competition is voluntary. The award is strictly honorary.

II. Method of Collection

The nomination form is downloadable off of EDA's Web site and can be faxed or submitted in hard copy to EDA.

III. Data

OMB Control Number: 0610–0101.

Form Number(s): None.

Type of Review: Regular submission.

Affected Public: State, local or Tribal Government and not-for-profit institutions.

Estimated Number of Respondents: 50.

Estimated Time Per Response: 3 hours.

Estimated Total Annual Burden Hours: 150.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

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

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

Dated: February 14, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–3159 Filed 2–20–08; 8:45 am]

BILLING CODE 3510–34–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 07–00005]

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Export Trade Certificate of Review to XCC Exportz Inc. (Application No. 07–00005).

SUMMARY: On February 15, 2008, the U.S. Department of Commerce issued an Export Trade Certificate of Review to XCC Exportz Inc. ("XCC"). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Jeffrey Anspacher, Director, Export Trading Company Affairs, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number), or by E-mail at *oetca@ita.doc.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. sections 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (2006).

Export Trading Company Affairs ("ETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the U.S. Department of Commerce to publish a summary of the certification in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct:

I. Export Trade

Products

All Products.

Services

All Services.

Technology Rights

Technology rights, including, but not limited to, patents, trademarks, copyrights, and trade secrets, that relate to Products and Services.

Export Trade Facilitation Services (as they relate to the export of Products, Services, and Technology Rights)

Export Trade Facilitation Services, including, but not limited to, professional services in the areas of government relations and assistance with state and federal programs; foreign trade and business protocol; consulting; market research and analysis; collection of information on trade opportunities; marketing; negotiations; joint ventures; shipping; export management; export licensing; advertising; documentation and services related to compliance with customs requirements; insurance and financing; trade show exhibitions; organizational development; management and labor strategies; transfer of technology; transportation services; and facilitating the formation of shippers' associations.

II. Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

III. Export Trade Activities and Methods of Operation

1. With respect to the sale of Products and Services, licensing of Technology Rights and provision of Export Trade Facilitation Services, XCC, subject to the terms and conditions listed below, may:

a. Provide and arrange for the provision of Export Trade Facilitation Services;

b. Engage in promotional and marketing activities and collect information on trade opportunities in the Export Markets and distribute such information to clients;

c. Enter into exclusive and/or non-exclusive licensing and/or sales agreements with Suppliers for the export of Products, Services, and/or Technology Rights to Export Markets;

d. Enter into exclusive and/or non-exclusive agreements with distributors and/or sales representatives in Export Markets;

e. Allocate export sales or divide Export Markets among Suppliers for the sale and/or licensing of Products, Services, and/or Technology Rights;

f. Allocate export orders among Suppliers;

g. Establish the price of Products, Services, and/or Technology Rights for sales and/or licensing in Export Markets;

h. Negotiate, enter into, and/or manage licensing agreements for the export of Technology Rights; and

i. Enter into contracts for shipping of Products to Export Markets.

2. XCC may exchange information on a one-to-one basis with individual

Suppliers regarding that Supplier's inventories and near-term production schedules for the purpose of determining the availability of Products for export and coordinating exports with distributors.

IV. Terms and Conditions of Certificate

1. In engaging in Export Trade Activities and Methods of Operations, XCC, including its officers, employees or agents, will not intentionally disclose, directly or indirectly, to any Supplier (including parent companies, subsidiaries, or other entities related to any Supplier) any information about any other Supplier's costs, production, capacity, inventories, domestic prices, domestic sales, or U.S. business plans, strategies, or methods that is not already generally available to the trade or public.

2. XCC will comply with requests made by the Secretary of Commerce on behalf of the Secretary of Commerce or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary of Commerce believes that the information or documents are required to determine that the Export Trade, Export Trade Activities and Methods of Operation of a person protected by this Certificate of Review continue to comply with the standard of section 303(a) of the Act.

V. Definition

"Supplier" means a person who produces, provides, or sells Products, Services, and/or Technology Rights.

VI. Protection Provided by Certificate

This Certificate protects XCC and its directors, officers, and employees acting on its behalf, from private treble damage actions and government criminal and civil suits under U.S. federal and state antitrust laws for the export conduct specified in the Certificate and carried out during its effective period in compliance with its terms and conditions.

VII. Effective Period of Certificate

This Certificate continues in effect from the effective date indicated below until it is relinquished, modified, or revoked as provided in the Act and the Regulations.

VIII. Other Conduct

Nothing in this Certificate prohibits XCC from engaging in conduct not specified in this Certificate, but such conduct is subject to the normal application of U.S. antitrust laws.

IX. Disclaimer

The issuance of this Certificate of Review to XCC by the Secretary of Commerce with the concurrence of the Attorney General under the provisions of the Act does not constitute, explicitly or implicitly, an endorsement or opinion of the Secretary of Commerce or the Attorney General concerning either (a) the viability or quality of the business plans of XCC or (b) the legality of such business plans of XCC under the laws of the United States (other than as provided in the Act) or under the laws of any foreign country.

The application of this Certificate to conduct in export trade where the U.S. Government is the buyer or where the U.S. Government bears more than half the cost of the transaction is subject to the limitations set forth in section V.(D.) of the "Guidelines for the Issuance of Export Trade Certificates of Review (Second Edition)," 50 FR 1786 (January 11, 1985).

A copy of the certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4100, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: February 15, 2008.

Jeffrey Anspacher,

Director, Export Trading Company Affairs.

[FR Doc. E8–3253 Filed 2–20–08; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF54

Atlantic Coastal Fisheries Cooperative Management Act Provisions; Tautog Fishery

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

ACTION: Notice of non-compliance referral.

SUMMARY: NMFS announces that on February 7, 2008, the Atlantic States Marine Fisheries Commission (Commission) found the State of New Jersey out of compliance with the Commission's Interstate Fishery Management Plan for Tautog (ISFMP). Subsequently, the Commission referred the matter to NMFS, under delegation of authority from the Secretary of Commerce, for federal non-compliance review under the provisions of the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act). The Atlantic Coastal Act mandates that NMFS must review the Commission's non-compliance referral and make specific findings within thirty (30) days after receiving the referral. If NMFS determines that New Jersey failed to carry out its responsibilities under the Tautog ISFMP, and if the measures it failed to implement are necessary for conservation, then, according to the Atlantic Coastal Act, NMFS must declare a moratorium on fishing for tautog in New Jersey waters.

DATES: NMFS intends to make a determination on this matter by March 11, 2008, and will publish its findings in the **Federal Register** immediately thereafter.

ADDRESSES: Harold C. Mears, Director, State, Federal and Constituent Programs Office, NMFS, Northeast Region, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Bob Ross, Fishery Management Specialist, NMFS, Northeast Region, (978) 281–9234, fax (978) 281–9117, e-mail *Bob.Ross@noaa.gov*.

SUPPLEMENTARY INFORMATION: Tautog (*Tautoga onitis*), often known by the common name "blackfish," is a coastal fish species ranging from Nova Scotia to South Carolina, but most abundant from the southern Gulf of Maine (lower Massachusetts Bay and southern Cape Cod Bay) to Chesapeake Bay. The Commission manages this species according to its Tautog ISFMP. The Commission's Tautog ISFMP can be located at *http://www.asmfc.org*, (select "Interstate Fishery Management," then select "Tautog.")

The Commission Tautog ISFMP—specifically Addendum IV and Addendum V to the ISFMP—indicate that states need to implement measures that would reduce their tautog landings by 25.6% in order to respond to scientific concerns that tautog is being overfished. New Jersey's Marine Fishery Council, however, in November 2007 refused to implement any further measures causing the Commission on February 7, 2008, to vote that New Jersey was out of compliance with the Tautog ISFMP. The Commission subsequently referred its non-compliance finding to NMFS.

Federal response to a Commission non-compliance referral is governed by the Atlantic Coastal Act. Under the Atlantic Coastal Act, the Secretary of Commerce must make two (2) findings within 30 days after receiving the non-compliance referral. First, the Secretary of Commerce must determine whether

the state in question (in this case, New Jersey) has failed to carry out its responsibilities under the ISFMP. Second, the Secretary of Commerce must determine whether the measures that the State has failed to implement or enforce are necessary for the conservation of the fishery in question. If the Secretary of Commerce makes affirmative findings on both criteria, then the Secretary must implement a moratorium on fishing in the fishery in question (in this case tautog) within the waters of the noncomplying state (in this case New Jersey). Further, the moratorium must become effective within six (6) months of the date of the Secretary's non-compliance determination. To the extent that the allegedly offending state later implements the involved measure, the Atlantic Coastal Act allows the state to petition the Commission that it has come back into compliance, and if the Commission concurs, the Commission will notify the Secretary of Commerce and, if the Secretary concurs, the moratorium will be withdrawn. The Secretary of Commerce has delegated Atlantic Coastal Act authorities to the Assistant Administrator for Fisheries at NMFS.

NMFS has notified the State of New Jersey, the Commission, the Mid-Atlantic Fishery Management Council, and the New England Fishery Management Council, in separate letters, of its receipt of the Commission's non-compliance referral. In the letters, NMFS solicits commentary from the Commission and Councils to the extent either entity is interested in providing such. NMFS also indicates to the State of New Jersey that the State is entitled to meet with and present its comments directly to NMFS if the State so desires.

NMFS intends to make its non-compliance determination on or about March 11, 2008, which is 30 days after receipt of the Commission's non-compliance referral. NMFS will announce its determination by **Federal Register** notice immediately thereafter. To the extent that NMFS makes an affirmative non-compliance finding, NMFS will announce the effective date of the moratorium in that **Federal Register** notice.

Authority: 16 U.S.C. 5101 *et seq.*

Dated: February 15, 2008.

Alan D. Risenhoover,

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

[FR Doc. E8–3252 Filed 2–20–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Science Advisory Board

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of open meeting.

SUMMARY: The Science Advisory Board (SAB) was established by a Decision Memorandum dated September 25, 1997, and is the only Federal Advisory Committee with responsibility to advise the Under Secretary of Commerce for Oceans and Atmosphere on strategies for research, education, and application of science to operations and information services. SAB activities and advice provide necessary input to ensure that National Oceanic and Atmospheric Administration (NOAA) science programs are of the highest quality and provide optimal support to resource management.

Time and Date: The meeting will be held Wednesday, March 12, 2008, from 8:30 a.m. to 5:15 p.m. and Thursday, March 13, 2008, from 8:30 a.m. to 5:30 p.m. These times and the agenda topics described below are subject to change. Please refer to the Web page: *http://www.sab.noaa.gov/Meetings/meetings.html* for the most up-to-date meeting agenda.

Place: The meeting will be held both days at the Hilton Washington DC/Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910. Please check the SAB Web site *http://www.sab.noaa.gov* for confirmation of the venue.

Status: The meeting will be open to public participation with a 30-minute public comment period on March 12 (check Web site to confirm time). The SAB expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of five (5) minutes. Written comments should be received in the SAB Executive Director's Office by March 7, 2008 to provide sufficient time for SAB review. Written comments received by the SAB Executive Director after March 7, 2008, will be distributed to the SAB, but may not be reviewed prior to the meeting date. Seats will be available on a first-come, first-served basis.

Matters To Be Considered: The meeting will include the following topics: (1) Draft Report from the Working Group to Examine Advisory Options for Improving Communications among NOAA's Partners (Partnerships WG or PWG); (2) Final Report from the Extension, Outreach & Education Working Group (EOEWG); (3) Report on the Final Results from the Ocean Exploration Advisory Working Group workshops; (4) NOAA Response to the SAB High-Performance Computing Recommendations and the Way Forward; (5) Discussion of a proposed SAB standing working group on ecosystems; (6) NOAA Monitoring Research Committee process updates and SAB Benchmark Review Discussion; (7) Discussion of SAB Strategic Planning; (8) the Census of Marine Life (CoML) Program; (9) the NOAA Hydrographic Services Review Panel; (10) results of the Review of the NOAA Coral Reef Conservation Program; (11) Report on NOAA Activities in Support of the International Year of the Reef (IYR); (12) Report on NOAA Activities in Support of the International Polar Year (IPY); and (13) the National Academy of Sciences (NAS) Board on Atmospheric Sciences and Climate (BASC).

FOR FURTHER INFORMATION CONTACT: Dr. Cynthia Decker, Executive Director, Science Advisory Board, NOAA, Rm. 11230, 1315 East-West Highway, Silver Spring, Maryland 20910. (Phone: 301–734–1156, Fax: 301–713–1459, E-mail: *Cynthia.Decker@noaa.gov*); or visit the NOAA SAB Web site at: *http://www.sab.noaa.gov.*

Dated: February 13, 2008.

Mark Brown,

Chief Financial Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. E8–3259 Filed 2–20–08; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF59

Endangered Species; File No. 10115

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Dr. Douglas Peterson, University of Georgia, Warnell School of Forest Resources, Athens, GA 30602, has applied in due form for a permit to take shortnose

sturgeon (Acipenser brevirostrum) for purposes of scientific research.

DATES: Written, telefaxed, or e-mail comments must be received on or before March 24, 2008.

ADDRESSES: The application 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)713–0376; and

Southeast Region, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701; phone (727)824–5312; fax (727)824–5309.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No. 10115.

FOR FURTHER INFORMATION CONTACT: Brandy Belmas or Malcolm Mohead, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested 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).

Dr. Douglas Peterson is seeking a five-year scientific research permit to conduct a presence/absence study of shortnose sturgeon in the St. Marys and Satilla Rivers, Georgia. The purpose of the proposed research is to assess the current status of shortnose sturgeon in these rivers, as well as evaluate the current habitat availability in each river. If shortnose sturgeon are found, another objective of the proposed research would be to quantify the genetic discreteness and effective population size of the extant stock. The applicant is requesting to capture (by anchored gill or trammel nets), measure, weigh, PIT tag, fin clip, and fin ray sample 73 shortnose sturgeon annually from each river. Blood samples would be collected from another 12 fish from each river annually, and internal radio tags would be implanted in a total of 10 fish from each river over the life of the permit.

Those fish that have blood collected and internal tags implanted would also be anesthetized and have their sex determined using laparoscopic procedures. Up to 20 eggs and larvae from each river would be collected by egg mats annually. A total of one unintentional mortality, for both rivers combined, is being requested each year.

Dated: February 14, 2008.

Tammy C. Adams,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E8–3258 Filed 2–20–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF33

Small Takes of Marine Mammals Incidental to Specified Activities; Marine Geophysical Survey off Central America, February-April 2008

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

ACTION: Notice; issuance of incidental take authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) regulations, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to Lamont-Doherty Earth Observatory (L-DEO), a part of Columbia University, for the take of marine mammals, by Level B harassment only, incidental to conducting a marine seismic survey off Central America during February-April, 2008.

DATES: Effective February 15, 2008, through February 14, 2009.

ADDRESSES: A copy of the IHA and the application are available by writing to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225 or by telephoning the contact listed here. A copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Candace Nachman, Office of Protected Resources, NMFS, (301) 713–2289 x156.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.≥

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45–day time limit for NMFS review of an application followed by a 30–day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either approve or deny the authorization.

Summary of Request

On August 24, 2007, NMFS received an application from L-DEO for the taking, by Level B harassment only, of small numbers of 26 species of marine mammals incidental to conducting, under a cooperative agreement with the National Science Foundation (NSF), a seismic survey in the Pacific Ocean and Caribbean Sea off Central America as part of the Subduction Factory (SubFac) initiative of NSF's MARGINS program from January-March, 2008. (The dates of the cruise were subsequently moved to February-April 2008.) The purpose of the research program was outlined in NMFS' notice of the proposed IHA (72 FR 71625, December 18, 2007).

Description of the Activity

The seismic survey will involve one source vessel, the R/V *Marcus G. Langseth* (*Langseth*), which will operate in two regions during the proposed survey: the Caribbean Sea and the Pacific Ocean. The *Langseth* will deploy an array of 36 airguns (6,600 in3) as an energy source and, at times, a receiving system consisting of a 6–km (3.7–mi) towed hydrophone streamer. The streamer will be towed at a depth of 5–8 m (16–26 ft). As the airgun array is towed along the survey lines, the hydrophone streamer will receive the returning acoustic signals and transfer the data to the on-board processing system. In the Caribbean region, the *Langseth* will also deploy Ocean Bottom Seismometers (OBSs) to receive the returning acoustic signals. In the Pacific Ocean, a second vessel, the R/V *New Horizon*, will deploy and retrieve the OBSs.

For the first part of the cruise, the *Langseth* is expected to depart Puerto Limon, Costa Rica, on approximately February 16, 2008 for the study area in the Caribbean Sea (see Figure 1 in the application). The seismic survey will commence following the transit and deployment of the streamer and airgun array. Following approximately 25 days of surveying in the Caribbean Sea, all equipment will be recovered, and the vessel will return to Puerto Limon on approximately March 11, 2008. The vessel will then transit through the Panama Canal, likely taking on fuel in Panama. The second part of the survey will commence in the Pacific Ocean on approximately March 19, 2008 from Puerto Caldera, Costa Rica. The Pacific survey is estimated to last approximately 25 days. The vessel is scheduled to arrive at Puerto Caldera on April 13, 2008. The exact dates of the activities depend upon logistics, as well as weather conditions and/or the need to repeat some lines if data quality is substandard.

The Central American SubFac survey will encompass the area from 9.6°–14° N., 82°–83.8° W. in the Caribbean Sea and the area 8°–11.5° N., 83.6°–88° W. in the Pacific Ocean (see Figure 1 in the application). Water depths in the survey area range from less than 100 m (328 ft) to greater than 2,500 m (8,202 ft).

The marine seismic survey will consist of approximately 2,149 km (1,335 mi) of unique survey lines: 753 km (468 mi) in the Caribbean and 1,396 km (867 mi) in the Pacific (see Table 1 in the application). With the exception of two lines (D and E) located in shallow to intermediate-depth water, all lines will be shot twice, once at approximately a 50–m (164 ft; 20–s) shot spacing for multichannel seismic data and once at approximately a 200–m (656 ft; 80–s) shot spacing for OBS refraction data, for a total of approximately 3,980 km (2,473 mi) of survey lines (see Table 1 in the application). The approximate numbers of line kilometers expected to be surveyed in the Pacific and Caribbean in three different water depth categories are shown in Table 2 of the application. There will be additional operations associated with equipment testing, startup, line changes, and repeat coverage of any areas where initial data quality is substandard. There will be an additional 77 km (48 mi) of survey effort in the Pacific Ocean around Culebra off Nicoya Peninsula not reflected in Table 1 of L-DEO's application. These additional six transect lines will occur in water greater than 100 m (328 ft) deep, will not add any additional days to the cruise, and are not expected to increase the number of takes by harassment (see below).

The *New Horizon* will be the dedicated OBS vessel during the Pacific part of the survey and will deploy and retrieve the OBSs. A combination of 85 OBSs (150 total deployments) will be used during the project. A total of 60 OBS deployments will take place in the Caribbean (from the *Langseth*), and 90 deployments will take place in the Pacific from the New Horizon.

In addition to the operations of the airgun array, a 12–kHz Simrad EM120 multibeam echosounder will be operated from the *Langseth* continuously throughout the cruise. Also, a 3.5–kHz sub-bottom profiler (SBP) will be operated by the *Langseth* during most of the survey and during normal operations by the *New Horizon*.

A more detailed description of the authorized action, including vessel and acoustic source specifications, was included in the proposed IHA notice (72 FR 71625, December 18, 2007).

Safety Radii

L-DEO estimated the safety radii around their operations using a model and by adjusting the model results based on empirical data gathered in the Gulf of Mexico in 2003. Additional information regarding safety radii in general, how the safety radii were calculated, and how the empirical measurements were used to correct the modeled numbers may be found in NMFS' proposed IHA notice (72 FR 71625, December 18, 2007) and Section I and Appendix A of L-DEO's application. Using the modeled distances and various correction factors, Table 1 outlines the distances at which three rms sound levels (190 dB, 180 dB, and 160 dB) are expected to be received from the various airgun configurations in shallow, intermediate, and deep water depths.

Source and Volume	Tow Depth (m)	Water Depth	Predicted RMS Distances (m)		
			190 dB	180 dB	160 dB
Single Bolt airgun 40 in^3	9	Deep	12	40	385
		Intermediate	18	60	578
		Shallow	150	296	1050

Source and Volume	Tow Depth (m)	Water Depth	Predicted RMS Distances (m)		
			190 dB	180 dB	160 dB
4 strings 36 airguns 6600 in^3	9	Deep	300	950	6000
		Intermediate	450	1425	6667
		Shallow	2182	3694	8000
4 strings 36 airguns 6600 in^3	12	Deep	340	1120	7400
		Intermediate	510	1680	8222
		Shallow	2473	4356	9867

Table 1. Predicted distances to which sound levels ≥190, 180, and 160 dB re 1 μPa might be received in shallow (<100 m; 328 ft), intermediate (100-1,000 m; 328-3,280 ft), and deep (>1,000 m; 3,280 ft) water during the Central American SubFac survey.

Comments and Responses

A notice of receipt of the L-DEO application and proposed IHA was published in the **Federal Register** on December 18, 2007 (72 FR 71625). During the comment period, NMFS received comments from the Marine Mammal Commission (MMC). Following are the comments from the MMC and NMFS' responses.

MMC Comment 1: The MMC recommends that observations be made during all ramp-up procedures to gather data regarding its effectiveness as a mitigation measure.

Response: The IHA requires that marine mammal observers (MMOs) on the *Langseth* make observations for 30 minutes prior to ramp-up, during all ramp-ups, and during all daytime seismic operations and record the following information when a marine mammal is sighted:

(i) species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the airguns or vessel (e.g., none, avoidance, approach, paralleling, etc., and including responses to ramp-up), and behavioral pace; and

(ii) time, location, heading, speed, activity of the vessel (including number of airguns operating and whether in state of ramp-up or power-down), sea state, visibility, cloud cover, and sun glare.

These requirements should provide information regarding the effectiveness of ramp-up as a mitigation measure, provided animals are detected during ramp-up.

MMC Comment 2: The MMC recommends that the monitoring period prior to the initiation of seismic activities and to the resumption of airgun activities after a power-down be extended to one hour.

Response: As the MMC points out, several species of deep-diving cetaceans are capable of remaining underwater for more than 30 minutes. However, for the following reasons, NMFS believes that 30 minutes is an adequate length for the monitoring period prior to the start-up of airguns: (1) because the *Langseth* is required to ramp-up, the time of monitoring prior to start-up of any but the smallest array is effectively longer than 30 minutes (i.e., ramp-up will begin with the smallest gun in the array and airguns will be added in a sequence such that the source level of the array will increase in steps not exceeding approximately 6 dB per 5–min period over a total duration of 20–40 min); (2) in many cases MMOs are making observations during times when sonar is not being operated and will actually be observing the area prior to the 30–min observation period anyway; (3), many of the species that may be exposed do not stay underwater more than 30 minutes; and (4) all else being equal and if a deep diving individual happened to be in the area in the short time immediately prior to the pre-start-up monitoring, if an animal's maximum underwater time is 45 minutes, there is only a 1 in 3 chance that its last random surfacing would be prior to the beginning of the required 30–min monitoring period.

MMC Comment 3: The MMC recommends that NMFS provide additional justification for its proposed determination that the planned monitoring program will be sufficient to detect, with a high level of certainty, all marine mammals within or entering the identified safety radii.

Response: The *Langseth* is utilizing a team of trained MMOs to both visually monitor from the high observation tower of the *Langseth* and to conduct passive acoustic monitoring (PAM). This monitoring, along with the required mitigation measures (see below), will result in the least practicable adverse impact on the affected species or stocks and will result in a negligible impact on the affected species or stocks.

When stationed on the observation platform of the *Langseth*, the eye level will be approximately 17.8 m (58.4 ft) above sea level, so the visible distance (in good weather) to the horizon is 8.9 nm (16.5 km; the largest safety radii is 2.4 nm, 4.4 km). Big eyes are most effective at scanning the horizon (for blows), while 7 X 50 reticle binoculars are more effective closer in (MMOs also use a naked eye scan). Night vision devices (NVDs) will be used in low light situations. Additionally, MMOs will have a good view in all directions around the entire vessel. Also, nearly 80 percent of the survey transect lines are in intermediate or deep water depths, where the safety radii are all less than 1 nm (1.9 km).

In some cases, particularly in shallow water, chase boats will be deployed, if practicable. The primary mission of the chase boat is to warn boats that the seismic vessel is approaching and thus the boat will be in front of the seismic vessel (generally about 3.7 km, 2 nm). The plan is to have one MMO on the chase boat, who will advise the *Langseth* of the presence of marine mammals in the operating area when forward of the vessel and check for injured animals when aft of the vessel.

Theoretical detection distance of this PAM system is 10s of kilometers. The PAM is operated both during the day and at night. Though it depends on the lights on the ship, the sea state, and thermal factors, MMOs estimated that visual detection is effective out to between 150 and 250 m (492 and 820 ft) using NVDs and about 30 m (98.4 ft) with the naked eye. However, the PAM operates equally as effectively at night as during the day, especially for sperm whales and dolphins.

MMC Comment 4: The MMC recommends that NMFS take steps to ensure that the planned monitoring program will be sufficient to detect, with reasonable certainty, all marine mammals within or entering the identified safety zones.

Response: Based on the information provided in the previous comment (above) and the following information, NMFS believes that the planned monitoring program will be sufficient to detect (using visual detection and PAM), with reasonable certainty, most marine mammals within or entering identified safety zones. This monitoring,

along with the required mitigation measures (see below), will result in the least practicable adverse impact on the affected species or stocks and will result in a negligible impact on the affected species or stocks.

As mentioned above, the platform of the *Langseth* is high enough that, in good weather, MMOs can see out to 16.5 km (8.9 nm). The PAM has reliable detection rates out to 3 km (1.6 nm) and more limited ability out to 10s of km. The largest 180–dB safety radii (3.7 and 4.4 km, 2 and 2.4 nm), which is the radii within which the *Langseth* is required to shut down if a marine mammal enters, are found when the 36–gun array is operating in shallow water at 9 and 12 m (29.5 and 39 ft) tow depths, respectively. The species most likely to be encountered in the shallow waters off the coasts of Nicaragua and Costa Rica are bottlenose and pantropical spotted dolphins, which have relatively larger group sizes (2–15 animals for bottlenose dolphins but even higher in some areas of the survey, 20 or more animals per group for pantropical spotted dolphins), are not cryptic at the surface, and have relatively short dive times (5–12 minutes for bottlenose), all which generally make them easier to visually detect. Furthermore, the vocalizations of these species are easily detected by the PAM. Also, as mentioned above, MMOs on chase boats will sometimes be used in addition to visual monitoring from the seismic vessels and PAM. During the *Maurice Ewing* cruise in the GOM in 2003, MMOs detected marine mammals at a distance of approximately 10 km (5.4 nm) from the vessel and identified them to species level at approximately 5 km (2.7 nm) from the vessel, though the bridge of that vessel was only 11 m (36 ft) above the water (vs. the *Langseth*, which is more than 17 m (55.8 ft) above sea level). All of the 180–dB safety radii for other water depths and tow depths and for the single 40 in^3 airgun to be used during ramp-ups and power-downs (see below) are less than 2 km (1.1 nm).

The likelihood of visual detection at night is significantly lower than during the day, though the PAM remains just as effective at night as during the day. However, the *Langseth* will not be starting up the airguns unless the safety range is visible for the entire 30 minutes prior (i.e., not an night), and therefore in all cases at night, the airguns will already be operating, which NMFS believes will cause many cetaceans to avoid the vessel, which therefore will reduce the number likely to come within the safety radii. Additionally, all of the safety radii in intermediate and deep water depths are smaller than 3 km (1.6 nm) and fall easily within the reliable detection capabilities of the PAM.

Description of Marine Mammals in the Activity Area

A total of 35 marine mammal species are known to or may occur in the study area off Central America, including 26 odontocete (dolphins and small and large toothed whales) species, six mysticete (baleen whales) species, two pinniped species, and the West Indian manatee. Six of the species that may occur in the project area are listed under the U.S. Endangered Species Act (ESA) as Endangered: the sperm, humpback, sei, fin, and blue whale and the manatee. The West Indian manatee is under the jurisdiction of the U.S. Fish and Wildlife Service (USFWS) and therefore is not considered further in this analysis. L-DEO requested and has been authorized to take 26 of these species. The remaining nine species are not expected to be encountered during the survey.

Table 2 outlines the species, their habitat and abundance in the project area, and the estimated and authorized take levels. Additional information regarding the status and distribution of the marine mammals in the area and how the densities were calculated was included in the notice of the proposed IHA (72 FR 71625, December 18, 2007) and may be found in L-DEO's application.

Species	Habitat	Abun. in NW Atlantic[1]	Abun. in ETP[2]	Auth Take in Carib. Sea	Auth Take in ETP
Odontocetes					
Sperm whale (C,P)(*Physeter macrocephalus*)	Pelagic	13,190[a] 4,804	26,053[b]	3	71
Pygmy sperm whale (C*,P)(*Kogia breviceps*)	Deeper water off shelf	395[c]	N.A.	0	0
Dwarf sperm whale (C*,P) (*Kogia sima*)	Deeper waters off shelf	395[c]	11,200[d]	0	856
Cuvier's beaked whale (C*,P) (*Ziphius cavirostris*)	Pelagic	3,513[e]	20,000 90,725[bb]	0	302
Longman's beaked whale (P?) (*Indopacetus pacificus*)	Pelagic	N.A.	291[bb]	0	9
Pygmy beaked whale (P) (*Mesoplodon peruvianus*)	Pelagic	N.A.	25,300[f] 32,678[cc]	0	0
Gingko-tocthed beaked whale (P?) (*Mesoplodon ginkgodens*)	Pelagic	N.A.	25,300[f] 32,678[cc]	0	0
Gervais' beaked whale (C?)(*Mesoplodon europaeus*)	Pelagic	N.A.	N.A.	4	0
Blainville's beaked whale (C*,P) (*Mesoplodon densirostris*)	Pelagic	N.A.	25,300[f] 32,678[cc]	0	29

Species	Habitat	Abun. in NW Atlantic[1]	Abun. in ETP[2]	Auth Take in Carib. Sea	Auth Take in ETP
Rough-toothed dolphin (C?,P) (*Steno bredanensis*)	Mainly pelagic	2,223[g]	145,900	9	954
Tucuxi (C) (*Sotalia fluviatilis*)	Freshwater and coastal waters	49[h] 705[i]	N.A.	0	0
Bottlenose dolphin (C,P) (*Tursiops truncatus*)	Coastal, shelf and pelagic	43,951[j] 81,588[k]	243,500	389	2,380
Pantropical spotted dolphin (C?,P) (*Stenella attenuata*)	Coastal and pelagic	4,439	2,059,100	37	7,560
Atlantic spotted dolphin (C) (*Stenella frontalis*)	Coastal and shelf	50,978	N.A.	440	0
Spinner dolphin (C*,P) (*Stenella longirostris*)	Coastal and pelagic	11,971[g]	1,651,100	0	7,856
Costa Rican spinner dolphin (P) (*Stenella l. centroamericana*)	Coastal	N.A.	N.A.	0	3,358
Clymene dolphin (C?) (*Stenella clymene*)	Pelagic	6,086	N.A.	29	0
Striped dolphin (C*,P) (*Stenella coeruleoalba*)	Coastal and pelagic	94,462	1,918,000	31	8,110
Short-beaked common dolphin (P) (*Delphinus delphis*)	Shelf and pelagic	N.A.	3,093,300	0	14,045
Fraser's dolphin (C*,P) (*Lagenodelphis hosei*)	Pelagic	726[g]	289,300	0	144
Risso's dolphin (C*,P) (*Grampus griseus*)	Shelf and pelagic	20,479	175,800	0	651
Melon-headed whale (C*,P) (*Peponocephala electra*)	Pelagic	3,451[g]	45,400	0	1,315
Pygmy killer whale (C*,P) (*Feresa attenuata*)	Pelagic	6[l] 408[g]	38,900	0	231
False killer whale (C*,P) (*Pseudorca crassidens*)	Pelagic	1,038[g]	39,800	0	479
Killer whale (C,P) (*Orcinus orca*)	Coastal	133[g] 6,600[m]	8,500	10	17
Short-finned pilot whale (C,P) (*Globicephala macrorhynchus*)	Pelagic	31,139[n]	160,200[n]	36	3,717
Humpback whale (C?,P) (*Megaptera novaeangliae*)	Mainly nearshore waters and banks	10,400[o] 11,570[p]	NE Pacific 1,391[q]; SE Pacific ~2,900[r]	1	4
Minke whale (C*,P) (*Balaenoptera acutorostrata*)	Coastal	3,618s 174,000t	N.A.	0	0
Bryde's whale (C?,P) (*Balaenoptera edeni*)	Coastal and pelagic	35[g]	13,000[u]	3	68
Sei whale (C*,P) (*Balaenoptera borealis*)	Pelagic	12-13,000[v]	N.A.	0	0
Fin whale (C,P) (*Balaenoptera physalus*)	Pelagic	2,814 30,000t	1,851[q]	1	0
Blue whale (C*,P) (*Balaenoptera musculus*)	Coastal, shelf, and pelagic	320[w]	1,400	0	4

Species	Habitat	Abun. in NW Atlantic[1]	Abun. in ETP[2]	Auth Take in Carib. Sea	Auth Take in ETP
Sirenian					
West Indian manatee (C) (*Trichechus manatus manatus*)	Freshwater and coastal waters	86[x] 340[y]	N.A.	0	0
Pinnipeds					
California sea lion (P) (*Zalophus californianus*)	Coastal	N.A.	237,000-244,000[z]	0	0
Galápagos sea lion (P?) (*Zalophus wollebaeki*)	Coastal	N.A.	30,000[aa]	0	0

Table 2. The habitat, abundance, and requested take levels of marine mammals that may be encountered during the proposed Central American SubFac seismic survey off Central America. Note: Abun. = abundance, NWA = Northwest Alantic Ocean, P = may occur off Pacific coast of proposed project area, C = may occur off Caribbean coast of proposed project area, * = very unlikely to occur in proposed project area, ? = potentially possible but somewhat unlikely to occur in proposed project area, N.A. = Not available or not applicable.

[1] For cetaceans, abundance estimates are given for U.S. Western North Atlantic stocks (Waring et al. 2006) unless otherwise noted.
[2] Abundance estimates for the ETP from Wade and Gerrodette (1993) unless otherwise indicated.
[a] g(o) corrected total estimate for the Northeast Atlantic, Faroes-Iceland, and the U.S. east coast (Whitehead 2002).
[b] Whitehead 2002.
[c] This estimate is for Kogia sp.
[d] This abundance estimate is mostly for *K. sima* but may also include some *K. breviceps*.
[e] This estimate is for *Mesoplodon* and *Ziphius spp.*
[f] This estimate includes all species of the genus *Mesoplodon* from Wade and Gerrodette (1993).
[g] This estimate is for the northern Gulf of Mexico.
[h] Estimate from a portion of Cayos Miskito Reserve, Nicaragua (Edwards and Schnell 2001).
[i] Estimate from the Cananéia estuarine region of Brazil (Geise et al. 1999).
[j] Estimate for the Western North Atlantic coastal stocks (North Carolina (summer), South Carolina, Georgia, Northern Florida, and Central Florida).
[k] Estimate for the for the Western North Atlantic offshore stock.
[l] Based on a single sighting.
[m] Estimate for Icelandic and Faroese waters (Reyes 1991).
[n] This estimate is for *G. macrorhynchus* and *G. melas*.
[o] Estimate for the entire North Atlantic (Smith et al. 1999).
[p] This estimate is for the entire North Atlantic (Stevick et al. 2001, 2003).
[q] Carretta et al. 2007.
[r] Felix et al. 2005.
[s] This estimate is for the Canadian East Coast stock.
[t] Estimate is for the North Atlantic (IWC 2007a).
[u] This estimate is mainly for *Balaenoptera edeni* but may include some *B. borealis*.
[v] Abundance estimate for the North Atlantic (Cattanach et al. 1993).
[w] Minimum abundance estimate (Sears et al. 1990).
[x] Antillean Stock in Puerto Rico only.
[y] Antillean Stock in Belize (Reeves et al. 2002).
[z] Estimate for the U.S. stock (Carretta et al. 2007).
[aa] Reeves et al. 2002.
[bb] Ferguson and Barlow 2001 in Barlow et al. 2006.
[cc] This estimate includes all species of the genus *Mesoplodon* (Ferguson and Barlow 2001 in Barlow et al. 2006).

Potential Effects on Marine Mammals

The effects of sounds from airguns might include one or more of the following: tolerance, masking of natural sounds, behavioral disturbances, and at least in theory, temporary or permanent hearing impairment, or non-auditory physical or physiological effects (Richardson *et al.*, 1995; Gordon *et al.*, 2004; Nowacek *et al.*, 2007). However, it is unlikely that there would be any cases of temporary or especially permanent hearing impairment or any significant non-auditory physical or physiological effects. Also, behavioral disturbance is expected to be limited to relatively short distances.

The notice of the proposed IHA (72 FR 71625, December 18, 2007) included a discussion of the effects of sounds from airguns on mysticetes, odontocetes, and pinnipeds, including tolerance, masking, behavioral disturbance, hearing impairment, and other non-auditory physical effects. Additional information on the behavioral reactions (or lack thereof) by all types of marine mammals to seismic vessels can be found in Appendix C (e) of L-DEO's application.

The notice of the proposed IHA also included a discussion of the potential effects of the bathymetric sonar and the sub-bottom profiler. Because of the shape of the beams of these sources and their power, NMFS believes it unlikely that marine mammals will be exposed to either the bathymetric sonar or the SBP at levels at or above those likely to cause harassment. Further, NMFS believes that the brief exposure of cetaceans or pinnipeds to few signals from the multi-beam bathymetric sonar system are not likely to result in the harassment of marine mammals.

Estimated Take by Incidental Harassment

The notice of the proposed IHA (72 FR 71625, December 18, 2007) included an in-depth discussion of the methods used to calculate the densities of the marine mammals in the area of the seismic survey and the take estimates. Additional information was included in L-DEO's application. A summary is included here.

All anticipated takes authorized by this IHA are Level B harassment only, involving temporary changes in behavior. The two far right columns in Table 2, "Auth Take in Carib. Sea" and "Auth Take in ETP", display the numbers for which take is authorized in each ocean basin. Take calculations were based on maximum exposure estimates (based on maximum density estimates) vs. best estimates and are based on the 160–dB isopleth of a larger array of airguns. Given these considerations, the predicted number of marine mammals that might be exposed to sounds 160 dB may be somewhat overestimated.

Extensive marine mammal surveys have been conducted in the eastern tropical Pacific over numerous years (e.g., Polacheck, 1987; Wade and Gerrodette, 1993; Kinsey *et al.*, 1999, 2000, 2001; Ferguson and Barlow, 2001; Smultea and Holst, 2003; Jackson *et al.*, 2004; Holst *et al.*, 2005a; May-Collado *et al.*, 2005). Therefore, for the Pacific portion of the proposed seismic survey, marine mammal density data were readily available. The most comprehensive data available for the region encompassing the proposed survey area are from Ferguson and Barlow (2001) and Holst *et al.* (2005a).

For the Caribbean portion of the Central American SubFac program, we were unable to find published data on marine mammal densities in or immediately adjacent to the seismic survey area. The closest quantitative surveys were conducted in the southeast Caribbean (Swartz and Burks, 2000; Swartz *et al.*, 2001; Smultea *et al.*, 2004). Most of the survey effort by Swartz and Burks (2000) and Swartz *et al.* (2001) took place during March and April near the islands on the east side of the Caribbean Sea and near the north and northeast coasts of Venezuela in water depths <1,000 m (3,280 ft). Survey data from Smultea *et al.* (2004) were collected north of Venezuela during April-June in association with a previous L-DEO seismic survey. The L-DEO survey will occur from February-March in the western Caribbean Sea, a location and time of year in which the species densities are likely different from those during the above-mentioned surveys in the southeast Caribbean, but these surveys are the best available data at this time.

Except for dwarf sperm whales, the per-species take estimates fall within 3 percent (dwarf sperm whale takes are 7.64 percent) of the numbers estimated to be present during a localized survey in the Pacific Ocean off the coasts of Costa Rica and Nicaragua, and the affected species range far beyond the Pacific Ocean (i.e., the abundance of the species is notably larger). Therefore, NMFS believes that the estimated take numbers for these affected species are relatively small.

Similarly, the per-species take estimates are less than 1 percent (except killer (7.52 percent) and Bryde's (8.57 percent) whales) of the numbers estimated to be present during a localized survey in the Caribbean Sea off the coasts of Costa Rica and Nicaragua, and the species range far beyond the Caribbean (i.e., the abundance of the species is notably larger). Therefore, NMFS believes that the estimated take numbers for these species are relatively small.

No pinnipeds are expected to be encountered in the Caribbean, and the likelihood of encountering sea lions or other pinnipeds in the Pacific study area is also very low. No take of any pinniped species is authorized.

Potential Effects on Habitat

A detailed discussion of the potential effects of this action on marine mammal habitat, including physiological and behavioral effects on marine fish and invertebrates, was included in the notice of the proposed IHA (72 FR 71625, December 18, 2007). Based on the discussion in the proposed IHA and the nature of the activities (limited duration), the authorized operations are not expected to have any habitat-related effects that could cause significant or long-term consequences for individual marine mammals or their populations or stocks. Similarly, any effects to food sources are expected to be negligible.

Monitoring

Vessel-based Visual Monitoring

Vessel-based marine mammal visual observers (MMVOs) will be based aboard the seismic source vessel and will watch for marine mammals near the vessel during daytime airgun operations and during start-ups of airguns at night. MMVOs will also watch for marine mammals near the seismic vessel for at least 30 minutes prior to the start of airgun operations after an extended shutdown of the airguns. When feasible, MMVOs will also make observations during daytime periods when the seismic system is not operating for comparison of animal abundance and behavior. Based on MMVO observations, airguns will be powered down, or if necessary, shut down completely (see below), when marine mammals are detected within or about to enter a designated safety radius. The MMVOs will continue to maintain watch to determine when the animal(s) are outside the safety radius, and airgun operations will not resume until the animal has left that zone. The safety radius is a region in which a possibility exists of adverse effects on animal hearing or other physical effects.

During seismic operations off Central America, at least three observers will be based aboard the *Langseth*. MMVOs will be appointed by L-DEO with NMFS concurrence. At least one MMVO, and when practical two, will monitor the safety radii for marine mammals during daytime operations and nighttime startups of the airguns. MMVO(s) will be on duty in shifts of duration no longer than 4 hours. The crew will also be instructed to assist in detecting marine mammals and implementing mitigation requirements (if practical).

The *Langseth* is a suitable platform for marine mammal observations. When stationed on the observation platform, the eye level will be approximately 17.8 m (58.4 ft) above sea level, and the observer will have a good view around the entire vessel. During daytime, the MMVO(s) will scan the area around the vessel systematically with reticle binoculars (e.g., 7x50 Fujinon), Big-eye binoculars (25x150), and with the naked eye. During darkness, NVDs will be available (ITT F500 Series Generation 3 binocular-image intensifier or equivalent). Laser rangefinding binoculars (Leica LRF 1200 laser rangefinder or equivalent) will be available to assist with distance estimation.

Passive Acoustic Monitoring

PAM will take place to complement the visual monitoring program. Visual monitoring typically is not effective during periods of bad weather or at night, and even with good visibility, is unable to detect marine mammals when they are below the surface or beyond visual range. Acoustic monitoring can be used in addition to visual observations to improve detection, identification, localization, and tracking of cetaceans. It is only useful when marine mammals call, but it can be effective either by day or by night and does not depend on good visibility. The acoustic monitoring will serve to alert visual observers (if on duty) when vocalizing cetaceans are detected. It will be monitored in real time so visual observers can be advised when cetaceans are detected. When bearings (primary and mirror-image) to calling cetacean(s) are determined, the bearings will be relayed to the visual observer to help him/her sight the calling animal(s).

SEAMAP (Houston, Texas) will be used as the primary acoustic monitoring system. This system was also used during several previous L-DEO seismic cruises (e.g., Smultea *et al.*, 2004, 2005; Holst *et al.*, 2005a,b). A description of the PAM system was given in the notice of the proposed IHA (72 FR 71625, December 18, 2007).

While the *Langseth* is in the seismic survey area, the towed hydrophone array will be monitored 24 hours per day while at the survey area during airgun operations and also during most periods when the *Langseth* is underway with the airguns not operating. One MMO will monitor the acoustic detection system at any one time, by listening to the signals from two

channels via headphones and/or speakers and watching the real time spectrographic display for frequency ranges produced by cetaceans. MMOs monitoring the acoustical data will be on shift for 1–6 hours. All MMOs are expected to rotate through the PAM position, although the most experienced with acoustics will be on PAM duty more frequently.

When a cetacean vocalization is detected, the acoustic MMO will, if visual observations are in progress, contact the MMVO immediately to alert him/her to the presence of the vocalizing marine mammal(s). The information regarding the call will be entered into a database. The data to be entered include an acoustic encounter identification number, whether it was linked with a visual sighting, date, time when first and last heard and whenever any additional information was recorded, position and water depth when first detected, bearing if determinable, species or species group (e.g., unidentified dolphin, sperm whale), types and nature of sounds heard (e.g., clicks, continuous, sporadic, whistles, creaks, burst pulses, strength of signal, etc.), and any other notable information. The acoustic detection can also be recorded for further analysis.

MMVO Data and Documentation

MMVOs will record data to estimate the numbers of marine mammals exposed to various received sound levels and to document any apparent disturbance reactions or lack thereof. Data will be used to estimate the numbers of mammals potentially "taken" by harassment. They will also provide information needed to order a power-down or shutdown of airguns when marine mammals are within or near the relevant safety radius. When a sighting is made, the following information about the sighting will be recorded:

(1) Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the airguns or vessel (e.g., none, avoidance, approach, paralleling, etc. and including responses to ramp-up), and behavioral pace.

(2) Time, location, heading, speed, activity of the vessel (including number of airguns operating and whether in state or ramp-up, power-down, or full power), sea state, visibility, cloud cover, and sun glare.

The data listed under (2) will also be recorded at the start and end of each observation watch and during a watch, whenever there is a change in one or more of the variables.

All mammal observations, as well as information regarding airgun power down and shutdown, will be recorded in a standardized format. Data accuracy will be verified by the MMVOs at sea, and preliminary reports will be prepared during the field program and summaries forwarded to the operating institution's shore facility and to NSF weekly or more frequently. MMVO observations will provide the following information:

(1) The basis for decisions about powering down or shutting down airgun arrays.

(2) Information needed to estimate the number of marine mammals potentially 'taken by harassment', which must be reported to NMFS.

(3) Data on the occurrence, distribution, and activities of marine mammals in the area where the seismic study is conducted.

(4) Data on the behavior and movement patterns of marine mammals seen at times with and without seismic activity.

Mitigation

Mitigation and monitoring measures proposed to be implemented for the proposed seismic survey have been developed and refined during previous L-DEO seismic studies and associated environmental assessments (EAs), IHA applications, and IHAs. The mitigation and monitoring measures described herein represent a combination of the procedures required by past IHAs for other similar projects and on recommended best practices in Richardson *et al.* (1995), Pierson *et al.* (1998), and Weir and Dolman (2007). The measures are described in detail below.

Required mitigation measures include: (1) speed or course alteration, provided that doing so will not compromise operational safety requirements; (2) power-down procedures; (3) shutdown procedures; (4) ramp-up procedures; and (5) minimizing approaches to slopes and submarine canyons, if possible, because of sensitivity of beaked whales.

Speed or Course Alteration – If a marine mammal is detected outside the safety radius but is likely to enter it based on relative movement of the vessel and the animal, then if safety and scientific objectives allow, the vessel speed and/or course will be adjusted to minimize the likelihood of the animal entering the safety radius. Major course and speed adjustments are often impractical when towing long seismic streamers and large source arrays, thus for surveys involving large sources, alternative mitigation measures are required.

Power-down Procedures – A power-down involves reducing the number of operating airguns, typically to a single airgun (e.g., 40 in^3), to minimize the safety radius, so that marine mammals are no longer in or about to enter this zone. A power-down of the airgun array to a reduced number of operating airguns may also occur when the vessel is moving from one seismic line to another. The continued operation of at least one airgun is intended to alert marine mammals to the presence of the seismic vessel in the area.

If a marine mammal is detected outside the safety radius but is likely to enter it, and if the vessel's speed and/or course cannot be changed, the airguns will be powered down to a single airgun before the animal is within the safety radius. Likewise, if a mammal is already within the safety radius when first detected, the airguns will be powered down immediately. If a marine mammal is detected within or near the smaller safety radius around that single airgun (see Table 1), all airguns will be shutdown (see next subsection).

Following a power down, airgun activity will not resume until the marine mammal is outside the safety radius for the full array. The animal will be considered to have cleared the safety radius if it:

(1) Is visually observed to have left the safety radius; or

(2) Has not been seen within the safety radius for 15 minutes in the case of small odontocetes and pinnipeds; or

(3) Has not been seen within the safety radius for 30 minutes in the case of mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, killer, and beaked whales.

Following a power-down and subsequent animal departure as above, the airgun array will resume operations following ramp-up procedures described below.

Shutdown Procedures – The operating airgun(s) will be shutdown if a marine mammal is detected within the safety radius of a single 40 in3 airgun while the airgun array is at full volume or during a power down. Airgun activity will not resume until the marine mammal has cleared the safety radius or until the MMVO is confident that the animal has left the vicinity of the vessel. Criteria for judging that the animal has cleared the safety radius will be as described in the preceding subsection.

Ramp-up Procedures – A ramp-up procedure will be followed when the airgun array begins operating after a specified-duration period without

airgun operations or when a power-down has exceeded that period. For the present cruise, this period would be approximately 8 min. This period is based on the modeled 180–dB radius for the 36–airgun array (see Table 1) in relation to the planned speed of the *Langseth* while shooting in deep water. Similar periods (approximately 8–10 min) were used during previous L-DEO surveys.

Ramp-up from a state of no airgun operations will begin with the smallest airgun in the array (40 in^3). Airguns will be added in a sequence such that the source level of the array will increase in steps not exceeding 6 dB per 5–minute period over a total duration of approximately 20–40 min. Ramp-up from a reduced power state, such as during maintenance of an airgun string while the remaining string continues to fire would include the start-up of the returned string. During ramp-up, the MMVOs will monitor the safety radius, and if marine mammals are sighted, a course/speed change, power-down, or shutdown will be implemented as though the full array were operational.

Initiation of ramp-up procedures from shutdown requires that the full safety radius must be visible by the MMVOs, whether conducted in daytime or nighttime. This requirement will effectively preclude start ups at night or in thick fog because the outer part of the safety radius for that array will not be visible during those conditions. Ramp-up is allowed from a power-down under reduced visibility conditions only if at least one airgun (e.g., 40 in^3 or similar) has operated continuously throughout the survey without interruption, on the assumption that marine mammals will be alerted to the approaching seismic vessel by the sounds from the single airgun and could move away if they choose. Ramp-up of the airguns will not be initiated if a marine mammal is sighted within or near the applicable Safety radius during the day or close to the vessel at night.

Minimize Approach to Slopes and Submarine Canyons – Although sensitivity of beaked whales to airguns is not known, they appear to be sensitive to other sound sources (e.g., mid-frequency sonar). Beaked whales tend to concentrate in continental slope areas and in areas where there are submarine canyons. There are no submarine canyons within or near the study area. Three of the transect lines are on the continental slope, which accounts for only a small portion of the proposed study area (207 km; 128.6 mi) and a minimal amount of time (30 hours).

Reporting

A report will be submitted to NMFS within 90 days after the end of the cruise. The report will describe the operations that were conducted and sightings of marine mammals near the operations. The report will be submitted to NMFS, providing full documentation of methods, results, and interpretation pertaining to all monitoring. The 90–day report will summarize the dates and locations of seismic operations, all marine mammal sightings (dates, times, locations, activities, associated seismic survey activities), and estimates of the amount and nature of potential "take" of marine mammals by harassment or in other ways.

Endangered Species Act (ESA)

Pursuant to section 7 of the ESA, NSF has consulted with the NMFS, Office of Protected Resources, Endangered Species Division on this seismic survey. NMFS has also consulted internally pursuant to section 7 of the ESA on the issuance of an IHA under section 101(a)(5)(D) of the MMPA for this activity. NMFS has issued a Biological Opinion (BiOp), which concluded that the proposed action and issuance of an IHA are not likely to jeopardize the continued existence of blue, fin, humpback and sperm whales and green, hawksbill, leatherback, loggerhead, and olive ridley sea turtles. The BiOp also concluded that the proposed action would have no effect on critical habitat since none has been designated within the action area. The BiOp also made a not likely to be adversely affected finding for sei whales, Kemp's ridley sea turtles, and elkhorn and staghorn corals. An incidental take statement (ITS) will be issued for the take of blue, fin, humpback, and sperm whales and green, hawksbill, leatherback, loggerhead, and olive ridley sea turtles. Relevant Terms and Conditions of the ITS have been incorporated into the IHA.

NSF and L-DEO made a "no effects" determination for this seismic survey regarding the West Indian manatee. The USFWS concurred with this determination since activities would occur at least 8 km (5 mi) from shore in water depths greater than 20 m (65.6 ft). Also, no support vessels would be sent from shore during the cruise. Based on these parameters, a USFWS consultation was not required for this action.

National Environmental Policy Act (NEPA)

NSF prepared an Environmental Assessment of a Marine Geophysical Survey by the R/V *Marcus G. Langseth* off Central America, January-March 2008. NMFS has adopted NSF's EA and issued a Finding of No Significant Impact for the issuance of the IHA.

Determinations

NMFS has determined that the impact of conducting the seismic survey in the Pacific Ocean and Caribbean Sea off Central America may result, at worst, in a temporary modification in behavior (Level B Harassment) of small numbers of 26 species of cetaceans. Further, this activity is expected to result in a negligible impact on the affected species or stocks. The provision requiring that the activity not have an unmitigable adverse impact on the availability of the affected species or stock for subsistence uses does not apply for this action.

This negligible impact determination is supported by: (1) the likelihood that, given sufficient notice through relatively slow ship speed, marine mammals are expected to move away from a noise source that is annoying prior to it becoming potentially injurious; (2) the fact that marine mammals would have to be closer than 40 m (131 ft) in deep water, 60 m (197 ft) at intermediate depths, or 296 m (971 ft) in shallow water when a single airgun is in use from the vessel to be exposed to levels of sound (180 dB) believed to have even a minimal chance of causing TTS; (3) the fact that marine mammals would have to be closer than 950 m (0.5 nm) in deep water, 1,425 m (0.8 nm) at intermediate depths, and 3,694 m (2 nm) in shallow water when the full array is in use at a 9 m (29.5 ft) tow depth from the vessel to be exposed to levels of sound (180 dB) believed to have even a minimal chance of causing TTS; (4) the fact that marine mammals would have to be closer than 1,120 m (0.6 nm) in deep water, 1,680 m (0.9 nm) at intermediate depths, and 4,356 m (2.4 nm) in shallow water when the full array is in use at a 12 m (39 ft) tow depth from the vessel to be exposed to levels of sound (180 dB) believed to have even a minimal chance of causing TTS; (5) the likelihood that marine mammal detection ability by trained observers is good at those distances from the vessel; (6) the use of PAM, which is effective out to 10s of km, will assist in the detection of vocalizing marine mammals at greater distances from the vessel; and (7) the incorporation of other required mitigation measures (i.e., ramp-up, power-down, and shutdown). As a result, no take by injury or death is anticipated, and the potential for temporary or permanent hearing impairment is very low and will be

avoided through the incorporation of the required mitigation measures.

While the number of potential incidental harassment takes will depend on the distribution and abundance of marine mammals in the vicinity of the survey activity, the number of potential harassment takings is estimated to be small, a small percent of any of the estimated population sizes, and has been mitigated to the lowest level practicable through incorporation of the measures mentioned previously in this document.

Authorization

As a result of these determinations, NMFS has issued an IHA to L-DEO for conducting a marine geophysical survey in the Pacific Ocean and Caribbean Sea off Central America from February-April, 2008, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: February 14, 2008.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF10

Taking of Marine Mammals Incidental to Specified Activities; An On-ice Marine Geophysical and Seismic Programs in the U.S. Beaufort Sea

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

ACTION: Notice of issuance of three incidental harassment authorizations.

SUMMARY: In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that Incidental Harassment Authorizations (IHAs) to take marine mammals, by Level-B harassment, incidental to conducting on-ice marine geophysical research and seismic surveys by CGGVeritas (Veritas) and Shell Offshore, Inc. (SOI) in the U.S. Beaufort Sea, have been issued for a period of one year from the IHAs effective date.

DATES: These authorizations are effective from February 15, 2008, until February 14, 2009.

ADDRESSES: Copies of the applications, IHAs, the *Environmental Assessment (EA) on Regulations Governing the Taking of ringed and Bearded Seals Incidental to On-ice Seismic Activities in the Beaufort Sea* (NMFS' 1998 EA), the 2008 *Supplemental Environmental Assessment on the Issuance of Three Incidental Harassment Authorizations to Take Marine Mammals by Harassment Incidental to Conducting On-ice Seismic Survey Operations in the U.S. Beaufort Sea* (SEA), and/or a list of references used in this document may be obtained by writing to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225, or by telephoning one of the contacts listed here (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Shane Guan, Office of Protected Resources, NMFS, (301) 713–2289, ext 137 or Brad Smith, Alaska Region, NMFS, (907) 271–5006.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Permission shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring, and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except for certain categories of activities not pertinent here, the MMPA defines "harassment" as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45–day time limit for NMFS review of an application followed by a 30–day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either approve or disapprove the request for authorization.

Summary of Request

On August 8 and 14, 2007, NMFS received two applications from Veritas for the taking, by harassment, of three species of marine mammals incidental to conducting on-ice seismic surveys in Smith Bay and Pt. Thomson areas of the U.S. Beaufort Sea. On September 10, 2007, NMFS received an application from SOI for the taking, by harassment, of three species of marine mammals incidental to conducting an on-ice marine geophysical survey program offshore west of Simpson Lagoon, U.S. Beaufort Sea. Veritas plans to acquire 3D seismic data within the months of February – May, 2008. The energy source for the proposed activity will be vibroseis. The proposed SOI on-ice seismic survey will also use vibroseis as energy sources, and is scheduled to begin in early March 2008 with camp mobilization expected to begin approximately March 11 from Oliktok Point. No under-ice acoustic sources would be deployed during the on-ice marine seismic program. Data acquisition will begin in mid-March and continue for approximately 60 days until mid-May, followed by camp demobilization to Oliktok Point.

Description of the Activity

Veritas

The first specified geographic region of Veritas activities is a 569–km² (220–mi2) area extending across Smith Bay from point of entry from the west at approximately 71°06'00.05" N, 154°30'21.00" W to the east at point of exit to land at approximately 70°54'37.03" N, 153°46'43.43" W. Water depths in most (≤ 80 percent) of the area are less than 10 ft (3 m) based on bathymetry charts. The second specified geographic area is a 276–km² (107–mi²)

area extending across the Beaufort Sea from point of entry from the southwest corner at approximately 70°10'41.84"N, 146°43'03.36"W to the northwest corner at approximately 70°14'52.92"N, 146°42'15.21"W to the southeast corner at approximately 70°08'43.98"N, 145°58'10.70"W to the northeast corner off of Flaxman Island at approximately 70°11'28.82"N, 145°54'11.46"W. Water depths in most (> 75 percent) of the area are less than 10 ft (3 m) based on bathymetry charts. The proposed vibroseis operations for the Veritas' on-ice seismic project is expected to cover 1,345 line-miles (2,164 km).

SOI

The proposed SOI on-ice marine geophysical (seismic) program would be conducted over 10 to 20 MMS Outer Continental Shelf (OCS) lease blocks located offshore from Oliktok Point in the Alaskan Beaufort Sea. The proposed program location is in the vicinity of Thetis and Spy Islands, north-northwest of Oliktok Point. The majority of the OCS blocks covered in the proposed program are surrounding the 33 ft (10 m) water depth contour. Assuming seismic acquisition occurred over up to 20 OCS blocks, the proposed on-ice seismic project would cover a maximum estimated 3,000 line-miles (4,828 km) of surveying within a 265 mi2 (686 km2) area.

Detailed descriptions of these activities were published in the **Federal Register** on November 30, 2007 (72 FR 67713). No changes have been made to these proposed on-ice seismic survey activities.

Comments and Responses

A notice of receipt and request for public comment on the application and proposed authorization was published on November 30, 2007 (72 FR 67713). During the 30–day public comment period, NMFS received the following comments from the Marine Mammal Commission (Commission), the North Slope Borough (NSB), the North Alaska Environmental Center (NAEC), and the Center for Biological Diversity (CBD). Overall, the NSB supports the efforts to collect geological data from the ice instead of during the open water period when bowhead whales (Balaena mysticetus) and other marine mammals might be present and significant subsistence activity takes place.

Comment 1: The Commission recommends that NMFS issue the IHAs subject to the mitigation measures proposed in the November 30, 2007, **Federal Register** notice (72 FR 67713). The Commission recommends further that any authorization issued specify that, if a mortality or serious injury of a marine mammal occurs that appears to be related to the applicants' operations, activities will be suspended until NMFS has (1) reviewed the situation and determined that further deaths or serious injuries are unlikely or (2) issued regulations authorizing such takes under section 101(a)(5)(A) of the MMPA.

Response: NMFS agrees with the Commission's comments and recommendation that the applicants must implement monitoring and mitigation measures to achieve the least practicable impact on marine mammals species or stocks that may be exposed to the on-ice seismic activities. As described below, NMFS is requiring the applicants to implement a number of measures to reduce the level of impact on seals, which may be found within the vicinity of the projects.

NMFS agrees further with the Commission that on-ice seismic operations must be suspended immediately if a dead or injured marine mammal is found in the vicinity of the project areas and the death or injury of the animal could be attributable to the applicants' activities. This requirement is a condition in the IHA.

Comment 2: The Commission recommends that if other species marine mammals (e.g., beluga whales or bowhead whales) are observed in the vicinity of the surveys, activities be suspended until the animals depart or authorization to take such species is issued.

Response: NMFS agrees with the Commission's recommendation that if marine mammals not covered by these IHAs are observed within the vicinity of the survey areas and it is determined that on-ice seismic activities could adversely affect these marine mammals, the activities be suspended until the animals depart or authorization to take such species is granted. NMFS considers it is extremely unlikely, however, that beluga whales or bowhead whales will be present in the vicinity of the on-ice seismic operations. Due to safety reasons, these on-ice seismic operations can only be conducted in areas with ice thickness of at least 50 in (1.3 m) to support the heavy equipment and personnel, and the nearest lead would be at least 10 mi (16 km) away. This is not typical habitat for cetacean species, including bowhead and beluga whales and it is very unlikely cetacean species would be found near the project locations.

Comment 3: CBD argued that NMFS cannot lawfully issue IHAs because the proposed activities "have the potential to result in serious injury or mortality to marine mammals." Rather, NMFS is required to promulgate regulations pursuant to 16 U.S.C. 1371(a)(5)(A) to authorize take by injury or mortality. Specifically, CBD notes that because these activities will occur during the pupping season for ringed seals, there is a likelihood they will be killed by vehicles or they will be driven into the water prematurely, and therefore, unable to survive. (CBD cited a 2003 NRC report that at least one ringed seal pup was killed by a bulldozer clearing seismic lines on the shore-fast.

Response: NMFS does not agree with CBD's argument and believes the risk of injury or mortality from these activities is minimal. The **Federal Register** notice published on November 30, 2007 (72 FR 67713), provided a detailed description of the proposed activities, the potential impacts to marine mammals resulting from on-ice seismic surveys, and the proposed mitigation and monitoring measures. All project areas with water deeper than 3 m (9.9 ft) would be surveyed by trained seal lair sniffing dogs to locate ringed seal (not "ring seal" as mentioned in the CBD's comment) lairs prior to the start of any activities. All locations of seal structure would be marked and protected by a 150 m (490 ft) exclusion zone, within which seal structures could suffer damages (NMFS, 1998). The applicants would be prohibited therefore, from conducting any on-ice seismic activities within these areas. Trained seal lair sniffing dogs were used in previous on-ice activities in the U.S. Beaufort Sea (e.g., Smith and Codere, 2007) and have proven to be an effective way to locate seal structures during pre-activity surveys, thereby helping to avoid pinniped injuries or deaths that may result from moving vehicles running over seal lairs (Smith and Codere, 2007). The NRC (2003) example in CBD's comment that a ringed seal pup was killed by a bulldozer was due to ice road construction. The proposed on-ice seismic surveys would not require the construction of ice roads and that the affected footprint is small. In addition, as mentioned in the **Federal Register** notice (72 FR 67713), the applicants' vehicles would be required to avoid any pressure ridges, ice ridges, and ice deformation areas where seal structures may be present. With these monitoring and mitigation measures, it is extremely unlikely that marine mammals could be injured or killed as a result of the proposed on-ice seismic survey.

Comment 4: CBD states that the proposed authorizations "are legally infirm as they rely on a regulatory definition of 'small numbers' that is at odds with the statute and has been

struck down by the courts." CBD states further that by relying on the existing definition, NMFS is "committing prejudicial error rendering the IHAs invalid."

Response: NFMS does not agree with CBD's statement. The "small numbers" of ringed, bearded, and spotted seals that could be affected by the proposed on-ice seismic operations were analyzed and these numbers were compared to the relative population size of these species. As discussed in the previous **Federal Register** notice (72 FR 67713, November 30, 2007), it is estimated that up to 984 ringed seals (0.39 percent of estimated total Alaska population of 249,000) could be taken by Level B harassment due to Veritas' Smith Bay on-ice seismic survey, up to 477 ringed seals (0.19 percent of the total Alaska population) by Veritas' Pt. Thomson on-ice seismic surveys, and up to 1,187 ringed seals (0.47 percent of the total Alaska population) by SOI's on-ice geophysical program. Due to the unavailability of reliable bearded and spotted seals densities within the proposed project area, NMFS is unable to estimate take numbers for these two species. However, it is expected that much fewer bearded and spotted seals would be subject to takes by Level B harassment since their occurrence is very low within the proposed project areas, especially during spring (Moulton and Lawson, 2002; Treacy, 2002a; 2002b; Bengtson *et al.*, 2005). Consequently, the levels of take of these two pinniped species by Level B harassment within the proposed project areas would represent only small fractions of the total population sizes of these species in Beaufort Sea.

Comment 5: CBD states that NMFS did not make a separate finding that only "small numbers" of ringed seals, spotted seals, and bearded seals would be harassed by Veritas and Shell's planned activities in the proposed IHAs. NSB also states that without density information for bearded and spotted seals within the proposed project area, NMFS cannot grant IHAs under the MMPA.

Response: NMFS does not agree with CBD's statement. The November 30, 2007, **Federal Register** notice for the proposed IHAs identified the number of ringed seals expected to be taken by these activities. NMFS estimates that up to 984 ringed seals (0.39 percent of the estimated total Alaska population of 249,000) could be taken by Level B harassment due to Veritas' Smith Bay on-ice seismic survey; up to 477 ringed seals (0.19 percent of the estimated total Alaska population) by Veritas' Pt. Thomson on-ice seismic surveys; and up to 1,187 seals (0.47 percent of the estimated total Alaskan population) by SOI's on-ice geographical program. While NMFS was not able to develop a specific estimate of take for spotted and bearded seals due to data limitations, NMFS described, as highlighted below, that take of these other species is likely to be extremely low due to their infrequent occurrence in the project area.

NMFS has evaluated the projects and the level of take that could result from each on-ice seismic activity. NMFS finds, based on its evaluation of each of the three activities and the best available information that the number of ringed seal take is small relative to the overall affected population of the species.

Regarding NSB's concern, the **Federal Register** notice stated that "it is expected much fewer bearded and spotted seals would subject to takes by Level B harassment since their occurrence is very low within the proposed project areas, especially during spring (Moulton and Lawson, 2002; Treacy, 2002a; 2002b; Bengtson *et al.*, 2005). Consequently, the levels of take of these two pinniped species by Level B harassment within the proposed project areas would represent only small fractions of the total population sizes of these species in Beaufort Sea." NMFS relied on the best available information to determine the overall density estimates of spotted and bearded seals. Specifically, early estimates of bearded seals in the Bering and Chukchi seas range from 250,000 to 300,000 (Popov, 1976; Burns, 1981), and for spotted seals in the Bering Sea was 335,000 to 450,000 (Burns, 1973). In addition, these seals tend to congregate in areas with broken pack ice or along the ice edge, which are to be avoided by the proposed on-ice seismic operations due to safety reasons. Therefore, NMFS believes any take, if any, of spotted and bearded seals would be small relative to their overall estimated population. Please refer to the **Federal Register** notice for detailed information regarding the number of marine mammals expected to be taken for the proposed activities and the methods of calculating these numbers.

Comment 6: Citing NMFS' Stock Assessment Reports (SAR), CBD asserts that NMFS cannot make a "negligible impact" finding for the Veritas and SOI projects because NMFS does not have accurate information on the status of spotted seals, bearded seals, and ringed seals. NSB and NAEC are also concerned that no adequate information is available on bearded and spotted seals.

Response: NMFS does not agree with CBD's argument that a "rational negligible impact finding" cannot be made because of a lack of accurate or reliable data. Although the SAR stated that no up-to-date population estimates are available for these three species, recent population estimates from many studies point out that the population levels of these species are healthy and stable (e.g., ringed seal: Moulton *et al.*, 2002; Frost *et al.*, 2002; 2004; Bengtson *et al.*, 2005; spotted seal: Frost *et al.*, 1993: spotted seal; Lowry *et al.*, 1994; bearded seal: Bengtson *et al.*, 2000; Bengtson *et al.*, 2005). In addition, none of the species in question is listed under the Endangered Species Act, and the SAR clearly states that due to a very low level of interactions between U.S. commercial fisheries and ringed, bearded, and spotted seals, the species are not considered a strategic stock (Angliss and Outlaw, 2007).

Moreover, NMFS has reviewed each of the applications carefully and determined that no more than Level-B harassment of pinnipeds for each on-ice seismic survey would occur. Any animals that could be exposed to vibroseis would likely experience short-term annoyance as supported by prior studies (Burns and Kelly, 1982; Lyderseen and Hammill, 1993), because seals will not be physically harmed by on-ice seismic operations. In addition, because of the required mitigation and monitoring measures, NMFS is confident that any impacts, if at all, to pinnipeds resulting from the on-ice seismic surveys would be short-term and of little consequence.

NMFS has reviewed Veritas' applications carefully and it is clear that Veritas did request both of their IHAs to have Level B harassment of up to 10 bearded seals for each on-ice seismic activity. Please refer to Response to Comment 5 for additional information regarding take information for bearded and spotted seals.

Comment 7: CBD comments that in making its "negligible impact" determinations, NMFS must give the benefit of the doubt to the species. CBD implies that NMFS should adopt a precautionary approach when dealing with situations in which the population status of a species is unknown, and therefore, the true impacts of a project on the species cannot be ascertained.

Response: NMFS does not agree with CBD's argument that a precautionary approach should be employed for the on-ice seismic surveys. Moreover, CBD has not presented NMFS with any data to support its contention that the precautionary approach should apply in this case.

NMFS has reviewed the available literature and concluded that the most recent population estimate for ringed seals in Alaska is 249,000 animals. As described in Response to Comment 5, NMFS determined that take, by Level-B harassment of ringed seals within the project areas would result in no more than a negligible impact, because the number of seals that would be taken by Level B harassment represents only a small fraction of the Alaska population. Although there is no up-to-date assessment of the population level of Alaska ringed seal stock, there is no reason to believe that this population is declining or would be adversely affected by the proposed activities (Angliss and Outlaw, 2007).

Early estimates of bearded seals in the Bering and Chukchi seas range from 250,000 to 300,000 (Popov, 1976; Burns, 1981), and for spotted seals in the Bering Sea was 335,000 to 450,000 (Burns, 1973). Although there is no reliable recent population estimates for these two species, there is no reason to believe that these populations suffered significant decline. Therefore, according to NMFS' Stock Assessment Reports, it is recommended that the pinniped maximum theoretical net productivity rate of 12 percent be employed for these stocks (Wade and Angliss, 1997). In addition, since bearded and spotted seals occur mainly in areas with broken pack ice or along the ice edge (Burns, 1967; Lowry *et al.*, 1998), which are areas avoided by the proposed on-ice seismic operations for safety reasons, it is expected that Level B harassment from the proposed on-ice activities would be rare. Therefore, the precautionary approach is not appropriate given their infrequent occurrence in the project areas.

Moreover, NMFS will require the IHA holders to implement specific mitigation and monitoring measures, which are expected to avoid the possibility of injury or mortality and reduce the likelihood of behavioral harassment. Please refer to the **Federal Register** for detailed information on the impact analyses and a detailed description on the proposed monitoring, mitigation, and reporting measures for the Veritas and SOI's planned on-ice activities.

Comment 8: CBD argues that further cumulative environmental impact analysis would be particularly important for species such as the spotted seal, which has a very small Beaufort Sea population.

Response Regarding the cumulative environmental impact analysis, please refer to *Response* to *Comment 9* below. NMFS has also assessed the potential cumulative impacts of these IHAs in conjunction with other industrial activities in our Supplemental Environmental Assessment for the 2008 On-Ice Seismic Activities.

There is no scientifically-recognized Beaufort Sea population of spotted seals. The Alaska spotted seal stock is the only population found in U.S. waters and recognized under the MMPA (Angliss and Outlaw, 2007). Based on satellite tagging studies, spotted seals migrate south from the Chukchi Sea in October and pass through the Bering Strait in November and overwinter in the Bering Sea along the ice edge (Lowry *et al.*, 1998). During spring they tend to prefer small floes (i.e., < 20 m in diameter), and inhabit mainly the southern margin of the ice, with movement to coastal habitats after the retreat of the sea ice (Fay 1974; Shaughnessy and Fay, 1977; Simpkins *et al.*, 2003), therefore, they are rarely found within the proposed on-ice project areas which require ice thickness of at least 4 ft (1.2 m) for safety reasons.

Comment 9: CBD asserts that NMFS' negligible impact finding for pinnipeds under the MMPA is "suspect" because NMFS has failed to consider the cumulative impacts of numerous industrial activities (including other Arctic oil and gas development activities) and global warming.

Response: Section 101(a)(5)(D) of the MMPA allows citizens of the United States to take by harassment, small numbers of marine mammals incidental to a specified activity (other than commercial fishing) within a specified geographical region if NMFS is able to make certain findings. NMFS must issue an incidental harassment authorization if the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring, and reporting of such takings are set forth.

Pursuant to NEPA, NMFS is required to analyze the potential environmental effects of its actions. As part of the NEPA analysis (e.g., an EIS or EA), NMFS is required to consider the direct, indirect and cumulative impacts resulting from the proposed action along with a reasonable range of alternatives, including the proposed action.

NMFS has decided to issue 3 incidental harassment authorizations to Veritas and SOI, to take, by no more than Level B harassment, small numbers of marine mammals incidental to their proposed on-ice seismic surveys in the U.S. Beaufort Sea. After careful consideration of the proposed activities, and having considered the context in which these activities would occur, NMFS has determined that the proposed activities: (1) would not result in more than behavioral harassment (i.e., Level B) of small numbers of marine mammal species or stocks; (2) would not result in more than a negligible impact; (3) would not lead to an unmitigable adverse impact on subsistence uses; and (4) would be unlikely to directly, indirectly or cumulatively cause significant impacts to the human environment.

In reaching these conclusions, NMFS gave careful consideration to a number of issues and sources of information. In particular, NMFS assessed the potential direct impacts of the 2008 on-ice seismic surveys, the cumulative impacts from multiple activities in the U.S. Beaufort Sea, and the effects of climate change in the context of the specified activity and other activities occurring in the Beaufort Sea.

NMFS relied upon a number of scientific reports, including its most recent Alaska marine mammal stock assessment to support its findings (Angliss and Outlaw, 2007). The stock assessment contains a description of each marine mammal stock, its geographic range, a minimum population estimate, current population trends, current and maximum net productivity rates, optimum sustainable population levels and allowable removal levels, and estimates of annual human-caused mortality and serious injury through interactions with commercial fisheries and subsistence hunters. NMFS also considered, to the extent the data exists, the potential impacts of climate change on pinniped populations. NMFS recognizes that climate change is a concern for the sustainability of the entire Arctic ecosystem and has reviewed the available literature and stock assessment reports to support its negligible impact determination and finding of no significant impact. Moreover, according to a number of scientific studies, population levels of ringed, spotted and bearded seals are healthy and stable, with none being listed under the ESA or considered strategic stocks for purposes of the MMPA. This information affirms NMFS' position that these pinniped populations can sustain the short-term, localized impacts from the 2008 on-ice seismic surveys.

In addition, NMFS analyzed in its NEPA documents the effects of the proposed 2008 on-ice seismic surveys and the cumulative effects of past, present and reasonably foreseeable activities conducted in the Arctic

region, and concluded that impacts to marine mammals, particularly pinnipeds would be insignificant. NMFS anticipates that any pinnipeds exposed to vibroseis would be annoyed for a short period of time and would not experience physical harm. While there is a greater likelihood that larger numbers of ringed seals could be exposed to vibroseis (principally because of their higher occurrence in the project area and dependence upon thicker ice than spotted or bearded seals), NMFS does not believe that this species would be negatively impacted by the on-ice seismic surveys. . Furthermore, the required mitigation and monitoring measures are expected to reduce the likelihood or severity of any impacts to pinnipeds over the course of the 2008 survey season. With respect to cumulative impacts, NMFS evaluated a number of other activities that could impact marine mammals, and concluded that the incremental impact of the on-ice seismic surveys, combined with these other activities are not likely to result in a significant impact on the human environment. Finally, NMFS considered whether climate change could impact ice-dependent species such as ringed, spotted and bearded seals and acknowledged that reductions in sea ice could adversely affect pinniped production. However, it is unclear at this time the extent to which climate change contributes to a reduction in pinniped habitat or pinniped productivity. Any future oil and gas exploration or extraction activities and permit reviews would likely need to undertake similar analyses to determine how global warming may affect marine mammals in the Arctic region.

Comment 10: CBD asserts that NMFS cannot make a finding that on-ice seismic activities would not have an unmitigable adverse impact on the availability of marine mammal species or stocks for subsistence uses by Alaska Natives.

Response NMFS disagrees with CBD. The subsistence harvest during winter and spring is primarily ringed seals, but during the open-water period both ringed and bearded seals are taken. Nuiqsut hunters may hunt year round; however, most of the harvest has been in open water instead of the more difficult hunting of seals at holes and lairs (McLaren, 1958; Nelson, 1969). Subsistence patterns may be reflected through the harvest data collected in 1992, when Nuiqsut hunters harvested 22 of 24 ringed seals and all 16 bearded seals during the open water season from July to October (Fuller and George, 1997). Harvest data for 1994 and 1995 show 17 of 23 ringed seals were taken from June to August, while there was no record of bearded seals being harvested during these years (Brower and Opie, 1997). Only a small number of ringed seals was harvested during the winter to early spring period, which corresponds to the time of the proposed on-ice seismic operations.

Based on harvest patterns and other factors, on-ice seismic operations in the activity area are not expected to have an unmitigable adverse impact on subsistence uses of ringed and bearded seals because:

(1) Operations would end before the spring ice breakup, after which subsistence hunters harvest most of their seals.

(2) The areas where seismic operations would be conducted are small compared to the large Beaufort Sea subsistence hunting area associated with the extremely wide distribution of ringed seals.

Comment 11 CBD cites to the SOI IHA application and criticizes what it believes to be "nonsensical" mitigation measures, i.e., timing and locations for active seismic work during a time of year that has the least potential to affect marine mammals.

Response NMFS agrees with CBD's assessment that the timing of Veritas and SOI's on-ice seismic surveys should not be viewed as a mitigation measure. Therefore, NMFS has not factored this element into its required mitigation and monitoring requirements. It is worth noting, however, that in the context of Arctic oil and gas exploration, NMFS believes on-ice vibroseis activities during the winter and spring have the potential to result in substantially fewer adverse effects to marine mammal species or stocks compared with open water seismic surveys.

Comment 12: CBD points out the difference between **Federal Register** notice (72 FR 67713, November 30, 2007) and Veritas' IHA application regarding spaces between transect lines for pre-activity seal lair surveys. The **Federal Register** states that the transect lines will be spaced 250 m (820 ft) apart, while in Veritas' application the transect lines are proposed to be a quarter mile (402 m or 1,320 ft) apart. CBD also states that there is no explanation of the exclusion of seal-sniffing dog surveys in waters less than 3 meters deep.

Response As stated in the November 30, 2007, **Federal Register** notice (72 FR 67713), NMFS proposed that pre-activity seal lair surveys be conducted with transect lines spaced 250 m (820 ft) apart. NMFS will require the applicants to conduct surveys with transect lines spaced 250 m apart.

Based on aerial surveys of seals near BP's Northstar and Liberty sites between May and June, 2000, ringed seal densities in water depth between 0 - 3 m (0 - 9.8 ft) were much lower than densities observed in deeper strata (Moulton *et al.*, 2001). All these ringed seals were observed from a fixed-wing aircraft during surveys. Moulton *et al.* (2001) also noted that most of the 0 - 2 m (0 - 6.6 ft) portion of the 0 - 3 m (0 - 9.8 ft) would be frozen solid in spring and could not be used by seals, not to mention seal lairs, and that the 2 - 3 m (6.6 - 9.8 ft) portion would be marginal habitat at best. Therefore, NMFS does not believe seal lair surveys by trained dogs are warranted. All seals hauled out on ice would be spotted before the on-ice activities and thus Level A harassment can be avoided. In addition, as mentioned in the **Federal Register** notice (72 FR 67713), the applicants' vehicles would be required to avoid any pressure ridges, ice ridges, and ice deformation areas where seal structures may be present, though unlikely in shallow water areas.

Comment 13: CBD states that it submitted comments to the Minerals Management Services' (MMS') draft *Programmatic Environmental Assessment for Arctic Outer Continental Slope Seismic Surveys* (OCS EIS/EA MMS 2006–019) (PEA) on May 10, 2006, and argues that NMFS cannot adopt that draft PEA because it had serious legal deficiencies.

Response CBD must have commented on an outdated early draft version of the document, which has since been updated and superseded by the Final Programmatic Environmental Assessment (FPEA) on the *Arctic Ocean Outer Continental Shelf Seismic Surveys – 2006* (OCS EIS/EA MMS 2006–038) in June 2006. The draft PEA CBD commented on is not the correct document that NMFS listed in its November 30, 2007, **Federal Register** notice (72 FR 67713), therefore, its comments are irrelevant to the proposed IHAs. In addition, NMFS plans to use, instead, its 1998 Environmental Assessment (EA) for a similar action with a Supplemental EA (SEA) for the 2008 proposed on-ice seismic operations. Please refer to the "National Environmental Policy Act" section below for detailed information.

Comment 14: NSB and NAEC point out that the MMS FPEA on the *Arctic Ocean Outer Continental Shelf Seismic Surveys – 2006* is for open water seismic surveys, instead of on-ice vibroseis.

Response NMFS agrees with NSB and NAEC's comment that the MMS FPEA

on the *Arctic Ocean Outer Continental Shelf Seismic Surveys – 2006* focuses on open water seismic instead of on-ice vibroseis. Therefore, based upon further consideration, NMFS has decided to rely on the EA prepared in 1998 with an newly prepared SEA for the analysis under the National Environmental Policy Act (NEPA). Please refer to the NEPA section below for a detailed description.

Comment 15: NSB states that none of the applications provided sufficient detail as to the exact locations where seismic activity would occur, and that Veritas' applications failed to include the attached program area maps. NSB further points out that depending on within which portion of this large proposed area would seismic operations be conducted, the impacts to marine mammal will be different as animals are not distributed evenly within the proposed project area.

Response NMFS does not agree with NSB's comment. All applicants provided detailed information on the locations of their proposed on-ice seismic surveys, along with maps with clear boundaries. Although NMFS failed to post the maps of the Veritas' proposed on-ice activities, NMFS did make all documents available to the public through its November 30, 2007, **Federal Register** (72 FR 67713) notice announcing receipt of the applications and request for public comments. NSB should have contacted NMFS if it was interested in viewing the maps.

The exact location of the on-ice seismic surveys and transect routes will depend on suitable ice conditions and operational efficiency during the time of the activity, and the presence and absence of seal lairs after pre-activity surveys. The estimated takes are calculated and analyzed based on the maximum availability of marine mammals in the entire project areas. Since the actual on-ice activities would be conducted within portions of these areas that are analyzed, the actual impacts to marine mammals are expected to be lower.

Comment 16: NSB is concerned that bowhead whales and belugas (*Delphinapterus leucas*) could be potentially taken as a result of the proposed action. NSB states that bowheads and belugas typically begin passing by Barrow in mid-April, and that in a typical year, bowheads and belugas could be off the project area by mid-April within several days of passing Barrow.

Response NMFS does not agree with NSB's assessment. The nature of the proposed on-ice seismic R&D program would require ice thickness of at least 50 in (1.3 m) to support the heavy equipment and personnel, and the nearest lead would be at least 10 mi (16 km) away. This is not typical habitat for cetacean species, including bowhead and beluga whales, thus, no cetacean species are likely to be found in the vicinity of the project area. Therefore, NMFS does not believe the proposed project would affect bowhead or beluga whales. Due to safety concerns, Veritas and SOI will not operate in an area where the ice condition is thin enough to allow an open lead to develop.

Comment 17: NSB states that it is not clear that all the seal breathing holes or lairs would be located. NSB states that not enough information is provided in the application to determine how frequently the surveys would be conducted and whether enough passes would be conducted to locate all the lairs. NSB further states that if birthing lairs are not located, it is possible that seals could be injured or killed by being crushed by seismic equipment. NSB requests NMFS to complete a statistical analysis of the detection rate of dogs in a given area relative to observed, or estimated, population densities.

Response A detailed seal breathing holes and lairs survey protocol by trained seal lair sniffing dogs by transects that are spaced 250 m (820 ft) apart was described in the **Federal Register** notice (72 FR 67713, November 30, 2007), and is not repeated here. A more detailed report using seal lair-detecting dogs by Smith and Codere (2007) is available upon request. This report states that at distances of more than 0.25 miles (400 m, or 1,320 ft) the dogs can detect 80 percent or more of the seal structures in an area. Since the seal structure transects are more closely spaced for the Veritas and SOI's on-ice program (250 m, or 820 ft), the detection rate will be over 90 percent (T. Smith. Eco Marine. Pers. Comm. March, 2007). In addition, this project will use multiple dogs, which would further increase the detection rate. It is also important to understand that even though 100 percent of the ringed seals would not be detected within the proposed project area, the site where the equipment will be placed and the route where vehicles travel will be adequately surveyed and marked so that Level A harassment will be prevented. A statistical analysis of the detection rate of dogs in a given area relative to observed, or estimated, population densities is beyond the scope of the issuance of the IHAs; however, NMFS will consider this analysis when adequate data become available.

Comment 18: NSB states that it is possible that ringed seals could sustain hearing damage from the proposed on-ice seismic operations. NSB is also concerned that female ringed seals will likely remain near their pups even with considerable amounts of human activities, and could, therefore, be within the 190 dB zone of seismic activities if all lairs are not found. NSB points out that it is not possible to determine whether the 150 m (492 ft) exclusion zone from seal structures is sufficient.

Response NMFS does not agree with NSB's assessment that ringed seals or any other pinnipeds could sustain hearing damage from exposure of sounds resulting from on-ice vibroseis. Although effective source levels of vibroseis arrays for horizontal propagation in water under the ice are uncertain, estimates range from at least 185 dB to 212 dB re 1 microPa (Holliday *et al.*, 1984; Malme *et al.*, 1989, Richardson et al., 1995), which is considerably lower than source levels for large arrays of airguns. Therefore, it is highly unlikely that the received levels at 150 m (492 ft) would be close to 190 dB re 1 microPa and cause hearing damage or hearing threshold shifts to pinnipeds. In addition, the strongest energy is produced at frequencies sweeping from 10 to 70 Hz (Holliday *et al.*, 1984), which are below pinnipeds' hearing range. The 150 m (492 ft) exclusion zone is mainly used to reduce any Level B harassment caused by the vibration of the seismic vehicles and the presence of the survey crew, and it has been shown to be effective in providing protections to seal structures in several studies (e.g., Burns and Kelly, 1982) and previous on-ice seismic activities.

Comment 19: NSB points out that Veritas failed to provide any information about whether a field camp would be used and how, where and when the seismic equipment and/or camps would travel.

Response Although Veritas did not provide any information about whether a field camp would be used, the IHAs issued to Veritas and SOI require that no camps are allowed to be established within 150 m (492 ft) of seal lairs. All on-ice seismic operations (camp included) shall be conducted as far away as possible from seal structures.

In addition, the IHAs further require that no ice road may be built between the mobile camp and work site. Travel between the mobile camp and work site shall also be monitored for marine mammals and be done by vehicles driving through on a snow road. Vehicles must avoid any pressure ridges, ice ridges, and ice deformation

areas where seal structures are likely to be present.

Comment 20: NAEC points out that the proposed IHA for SOI did not mention any other types of geophysical activities to be conducted by SOI, either during the winter or later in the year, therefore no other surveys can be covered by this proposed IHA.

Response The proposed IHA to SOI would only cover SOI's on-ice geophysical program described in the **Federal Register** notice (72 FR 67713, November 30, 2007), within 10 to 20 MMS OCS lease blocks located offshore from Oliktok Point in the Alaskan Beaufort Sea, in the vicinity of Thetis and Spy Islands, north-northwest of Oliktok Point.

Comment 21: NAEC points out that SOI plans to conduct a number of additional geotechnical surveys this coming year, including during the time period of February to May 2008, which could add to the incidental take and activities which need to be addressed in NMFS proposed IHA review and NEPA analysis.

Response SOI has no other projects planned for the time period of February through May 2008 within the on-ice marine seismic program boundary. SOI does plan on deploying Argos data buoys beginning mid-late January 2008 on Beaufort Sea ice in the Sivulliq area, which is approximately 60 mi (97 km) east of the 2008 on-ice marine seismic program area. At various times during the 2008 open water season, SOI also plans on conducting marine surveys, 3D seismic surveys, potentially a geotechnical survey, and an exploration-drilling program. However, those additional activities would be based on separate analyses on the potential impacts on marine mammals.

Under the MMPA, if SOI plans to conduct future activities and wishes to obtain "take" coverage under section 101(a)(5) of the statute, SOI would need to contact NMFS and apply for incidental take permits of marine mammals if future activities could result in the take of marine mammal species or stocks. Any subsequent IHA applications from SOI for taking of marine mammals would be evaluated and reviewed on a case-by-case basis.

Comment 22: NAEC points out that the MMS and NMFS have co-authored a draft programmatic Environmental Impact Statement, *Seismic Surveys in the Beaufort and Chukchi Seas, Alaska* (OCS EIS/EA MMS 2007–001), and that since this NEPA process is still on-going, it needs to be completed with a Final EIS and decision prior to issuance of these incidental take authorizations.

Response NMFS does not agree with NAEC's assessment. The draft programmatic Environmental Impact Statement, *Seismic Surveys in the Beaufort and Chukchi Seas, Alaska* (OCS EIS/EA MMS 2007–001) covers open water seismic surveys, not on-ice vibroseis. Please refer to *Response* to *Comment 14* above and the NEPA section below for additional information regarding NEPA review.

Comment 23: NAEC states that even though polar bears are regulated by the USFWS, NMFS still has the obligation to consider the ecological relationships between this species and its primary food source, the ringed seals.

Response Comment noted. However, as mentioned in the November 30, 2007, **Federal Register** notice (72 FR 67713) Veritas and SOI are seeking a take authorization from the U.S. Fish and Wildlife Service (USFWS) for the incidental taking of polar bears because USFWS has management authority for this species. A detailed analysis on ecological relationships between polar bears and their ringed seals are beyond the scope of the proposed IHAs. However, NMFS notes that no ringed seals will be removed from the population from the proposed action.

Comment 24: NAEC states that NMFS has underestimated the impacts of the seismic surveys on ringed seals and ignored important documented impacts from past surveys and the effects to subsistence. NAEC states that NMFS did not mention that ringed seal lairs and pups have been crushed and the pups killed by past seismic surveys and other on-ice activities according to monitoring done for the Northstar project, and other scientific studies conducted by Dr. Brendan Kelly.

Response NMFS does not agree with NAEC's statement. NAEC provided an incomplete description on NMFS analysis of the potential effects on marine mammals from on-ice seismic activities. In the "Potential Effects on Marine Mammals and Their Habitat" section of the November 30, 2007, **Federal Register** notice (72 FR 67713), NMFS stated that "[i]ncidental harassment to marine mammals could result from physical activities associated with on-ice seismic operations, which have the potential to disturb and temporarily displace some seals. For ringed seals, pup mortality could occur if any of these animals were nursing and displacement were protracted."

The analyses provided in the **Federal Register** notice (72 FR 67713, November 30, 2007) are based on the best scientific information available, including on-ice activities according to monitoring done for BP's Northstar project (e.g., William *et al.*, 2001; Moulton *et al.*, 2001; 2005; Williams *et al.*, 2006). In the report *Monitoring of Industrial Sounds, Seals, and Whale Calls During Construction of BP's Northstar Oil Development, Alaskan Beaufort Sea, 2000* (Richardson and Williams, 2001), the authors concluded that "[d]uring the 1999 – 2000 ice-covered season, no evidence of seal injuries or fatalities was evident, nor was it expected," and that the expected 99 seals within the potential impact zone were taken by Level B harassment only. The report further stated that the monitoring results, "along with the presence of active structures near Northstar during the dog-assisted search in May 2000, indicate that effects of industrial activities were likely minor and localized." In addition, the most recent studies by Moulton *et al.* (2005) and Williams *et al.* (2006) also showed that effects of oil and gas development on local distribution of seals and seal lairs are no more than slight, and are small relative to the effects of natural environmental factors.

Although NMFS recognizes that in the past seal lairs have been crushed and at least one seal pup was killed by a bulldozer (NRC, 2003), however, those were caused by lack of adequate pre-activity seal lair surveys by trained dogs, as mentioned previously. The proposed monitoring and mitigation measures, described in this document below, will prevent serious injury and mortality to marine mammals and are also expected to reduce the potential for behavioral harassment.

In calculating the estimated take of marine mammals, NMFS did use Dr. Brenden Kelly's research data (Kelly and Quakenbush, 1990).

Comment 25: NAEC states that it is unclear whether the entire seismic survey line areas will be surveyed using trained dogs to identify lairs and how NMFS will ensure that this is done prior to the surveys.

Response NMFS does not agree with NAEC's statement. As stated in the November 30, 2007, **Federal Register** notice (72 FR 67713), only areas with water and ice deeper than 3 m (9.8 ft) will be surveyed for seal lairs using trained dogs. Please refer to the **Federal Register** notice for a detailed description regarding on the pre-activity seal survey would be conducted. The IHAs to Veritas and SOI will require that they complete these pre-activity surveys before any on-ice seismic activities are carried out.

Comment 26: NAEC states that NMFS failed to provide any analysis describing the subsistence use areas and nature of use for the Alaska Natives in Nuiqsut,

Kaktovik, and Barrow. NAEC further states that there are no analysis of local or regional impacts to the seals or an assessment of the harm to the animals used by each community and the cumulative impacts.

Response NMFS does not agree with NAEC's statement. As analyzed in the November 30, 2007, **Federal Register** notice (72 FR 67713), the on-ice seismic operations are not expected to have an unmitigable adverse impact on availability of marine mammal species and stocks for taking for subsistence uses because: (1) operations would end before the spring ice breakup, when most subsistence harvest activities occur; and (2) the areas where on-ice seismic operations would be conducted are small compared to the large Beaufort Sea subsistence hunting area associated with the extremely wide distribution of ringed seals.

NMFS further described in the **Federal Register** notice (72 FR 67713, November 30, 2007) that Nuiqsut, Kaktovik, and Barrow communities have been working closely with Veritas and SOI to ensure that there will be no unmitigable adverse impact to subsistence use of marine mammals as a result of the proposed on-ice seismic operations. Specific measures include hiring native advisors for the proposed on-ice seismic operations, and implement mitigation and monitoring measures to ensure the availability of seals to subsistence use. Please refer to "Potential Effects on Subsistence" section for a detailed description and update.

Comment 27: NAEC points out that the NMFS failed to provide documentation that Shell or Veritas held plan of cooperation meetings in the affected communities for the seismic program proposed in the **Federal Register** notice, nor the results of those meetings or that plans of cooperation were agreed to by these communities to the agency.

Response NMFS does not agree with NAEC's statement. In the **Federal Register** notice (72 FR 67713, November 30, 2007), NMFS stated that "Veritas will consult with the potentially affected subsistence communities of Barrow, Nuiqsut, Kaktovik, and other stakeholder groups to develop a Plan of Cooperation," and that "Plan of Cooperation meetings in the communities of Nuiqsut and Barrow are being held during October 2007 by SOI." An update of additional meetings and their results are described in the "Potential Effects on Subsistence" section of this document.

Comment 28: NAEC points out that the monitoring plans described by Veritas in its August 14, 2007, application are vague and NMFS should include additional requirements in Veritas' IHA.

Response NAEC should refer to the November 30, 2007, **Federal Register** notice (72 FR 67713) and this document for a detailed description of monitoring measures.

Description of Marine Mammals Affected by the Activity

Four marine mammal species are known to occur within the proposed survey area: ringed seal (*Phoca hispida*), bearded seal (*Erignathus barbatus*), spotted seal (*Phoca largha*), and polar bear (*Ursus maritimus*). Although polar bears are now proposed to be listed as threatened, none of these species are listed under the Endangered Species Act (ESA) as endangered or threatened species. Other marine mammal species that seasonally inhabit the Beaufort Sea, but are not anticipated to occur in the project area during the proposed R&D program, include bowhead whales and beluga whales. Veritas and SOI will seek a take Authorization from the USFWS for the incidental taking of polar bears because USFWS has management authority for this species. A detailed description of these species can be found in Angliss and Outlaw (2007), which is available at the following URL: *http://www.nmfs.noaa.gov/pr/pdfs/sars/ak2006.pdf*. A more detailed description of these species and stocks within the proposed action area provided in the November 30, 2007, **Federal Register** (72 FR 67713). Therefore, it is not repeated here.

Potential Effects on Marine Mammals and Their Habitat

Incidental harassment to marine mammals could result from physical activities associated with on-ice seismic operations, which have the potential to disturb and temporarily displace some seals. For ringed seals, pup mortality could occur if any of these animals are nursing and displacement is protracted. However, it is unlikely that a nursing female would abandon her pup given the normal levels of disturbance from the proposed activities, potential predators, and the typical movement patterns of ringed seal pups among different holes. Ringed seals also use as many as four lairs spaced as far as 3,437 m (11,276 ft) apart. In addition, seals have multiple breathing holes. Pups may use more holes than adults, but the holes are generally closer together than those used by adults. This indicates that adult seals and pups can move away from seismic activities, particularly since the seismic equipment does not remain in any specific area for a prolonged time. Given those considerations, combined with the small proportion of the population potentially disturbed by the proposed activities, impacts to ringed seals from each project are expected to be negligible.

The seismic surveys would only introduce low level acoustic energies into the water column and no objects would be released into the environment. In addition, the total footprint of the proposed seismic survey areas represent only a small fraction of the Beaufort Sea pinniped habitat. Sea-ice surface rehabilitation is often immediate, occurring during the first episode of snow and wind that follows passage of the equipment over the ice.

Number of Marine Mammals Expected to Be Taken

NMFS estimates that up to 984 ringed seals (0.39 percent of estimated total Alaska population of 249,000) could be taken by Level B harassment due to Veritas' Smith Bay on-ice seismic survey, up to 477 ringed seals (0.19 percent of the total Alaska population) by Veritas' Pt. Thomson on-ice seismic surveys, and up to 1,187 ringed seals (0.47 percent of the total Alaska population) by SOI's on-ice geophysical program. The estimated take numbers are based on consideration of the number of ringed seals that might be disturbed within each of the proposed project areas, calculated from the adjusted ringed seal density of 1.73 seal per km^2 (Kelly and Quakenbush, 1990).

Due to the unavailability of reliable bearded and spotted seals densities within the proposed project area, NMFS is unable to estimate take numbers for these two species. However, since bearded and spotted seals mainly occur in areas with broken pack ice and along the ice edge (Burns, 1967; Lowry *et al.*, 1998), which are avoided by on-ice seismic operations for safety reasons, it is expected that significantly fewer, if any, bearded and spotted seals would be subject to takes by Level B harassment since their occurrence in these areas is very low (Moulton and Lawson, 2002; Treacy, 2002a; 2002b; Bengtson *et al.*, 2005). Consequently, the levels of take of these two pinniped species by Level B harassment within the proposed project areas would represent only small fractions of the total population sizes of these species in Beaufort Sea.

In addition, NMFS expects that the actual take by Level B harassment from the proposed on-ice seismic programs would be much lower than the estimates due to the implementation of the proposed mitigation and monitoring

measures discussed below. Therefore, NMFS believes that any potential impacts to ringed, bearded, and spotted seals to the proposed on-ice geophysical seismic program would be no more than negligible, and would be limited to distant and transient exposure.

Potential Effects on Subsistence

The affected pinniped species are all taken by subsistence hunters of the Beaufort Sea villages. However, on-ice seismic operations in the activity areas are not expected to have an unmitigable adverse impact on availability of these stocks for taking for subsistence uses because:

(1) Operations would end before the spring ice breakup, after which subsistence hunters harvest most of their seals; and

(2) The areas where on-ice seismic operations would be conducted are small compared to the large Beaufort Sea subsistence hunting area associated with the extremely wide distribution of ringed seals.

In addition, trained dogs will be used to locate ringed seal lairs before the onset of seismic activities. Subsistence advisors will be used as marine mammal observers during performance of the seismic program. During the seal pupping season, planned seismic line segments will be surveyed via the research biologists teamed with lair sniffing dogs; these teams will be accompanied by Inupiat subsistence hunters experienced in the area of the project.

For the two proposed Veritas on-ice seismic projects, most of the anticipated program areas are within 3 – 4 miles (4.8 – 6.4 km) of the coast on the proposed surveys. The proposed on-ice seismic surveys are not thought to hinder subsistence harvest greatly during the timing of the programs. For the proposed Smith Bay project, Nuiqsut and Barrow are the closest communities to the area of the proposed activity, and Veritas has held the following Plan of Cooperation meetings:

(1) Veritas presented the proposed on-ice program in Wainwright on November 1, 2007, in Barrow on November 8, 2007, and in Atqasuk on November 9, 2007.

(2) Veritas presented the proposed on-ice program to the Native Village of Barrow (NVB) and to the Inupiat Community of the Arctic Slope (ICAS) in November 2007; and to the Kuukpik Subsistence Oversight Panel (KSOP) and Subsistence Oversight Panel in Nuiqsut on December 6, 2007.

(3) The Arctic Slope Regional Corporation (ASRC) and NVB were contracted for the hiring of subsistence representatives for the proposed Veritas on-ice seismic program.

For the proposed Pt. Thomson project, Kaktovik is the closest community to the area of the proposed activity, and Veritas has held the following Plan of Cooperation meetings:

(1) Veritas presented the proposed on-ice program in Kaktovik on December 17, 2007.

(2) Veritas representatives met with the Kaktovik Inupiat Corporation (KIC) and the Subsistence Oversight Panel in Nuiqsut on December 6, 2007, regarding the proposed on-ice seismic program.

(3) Veritas has contracted with KIC for the hiring of subsistence representatives for the on-ice seismic program.

In any of these affected villages, Veritas stated that there was no negative feedback that expected or requested additional mitigation measures other than Veritas' standard operating procedures and mitigation measures.

For the proposed SOI on-ice geophysical program, the following Plan of Cooperation meetings were held:

(1) SOI held Plan of Cooperation meetings on November 1, 2007, with the community of Nuiqsut, and the KSOP for the purpose of presenting the proposed 2008 on-ice marine seismic program.

(2) SOI has hired a local subsistence advisor for Nuiqsut, in addition to the other North Slope communities of Barrow, Kaktovik, Wainwright, Pt. Lay, and Pt. Hope. The roles of these subsistence advisors are to present maps and subsistence questionnaires which ask subsistence related questions to the residents and subsistence hunters of each community. Subsistence advisors are available during the performance of each SOI program/project in order to effectively communicate between the community and SOI where subsistence activities are on-going, or proposed. This enables SOI to conduct activities with prepared mitigation measures that lessen and avoid impacts to subsistence activities.

Mitigation and Monitoring

The following mitigation and monitoring measures are required for the subject on-ice seismic surveys. All activities will be conducted as far as practicable from any observed ringed seal lair and no energy source will be placed over a seal lair.

Trained seal lair sniffing dogs will be employed by Veritas and SOI for areas of sea ice beyond 3 m (9.8 ft) depth contour to locate seal structures under snow (subnivean) before the seismic program begins. The areas for the proposed projects and camp sites must be surveyed for the subnivean seal structures using trained dogs running together. Transects will be spaced 250 m (820 ft) apart and oriented 90o to the prevailing wind direction. The search tracks of the dogs shall be recorded and marked. Subnivean structures shall be probed by a steel rod to check if each is open (active), or frozen (abandoned).

Veritas and SOI must also use trained dogs to survey the snow road and establish a route where no seal structure presents. The surveyed road must be entered into GPS and flagged for vehicle to follow.

Any locations of seal structures must be marked and protected by a 150–m (490–ft) exclusion distance from any existing routes and on-ice seismic activities. During active seismic vibrator source operations, the 150–m (490–ft) exclusion zone shall be monitored for entry by any marine mammals.

No ice road may be built between the mobile camp and work site. Travel between mobile camp and work site shall also be monitored for marine mammals and be done by vehicles driving through on a snow road. Vehicles must avoid any pressure ridges, ice ridges, and ice deformation areas where seal structures are likely to be present.

Reporting

NMFS requires that annual reports must be submitted to NMFS within 90 days of completing the year's activities. The reports shall include any seal structures, categorized by size and odor to indicate whether the structure is a birth lair, resting lair, resting lair of rutting male seals, or a breathing hole. The reports shall also contain detailed descriptions of any marine mammal, by species, number, age class, and sex if possible, that is sighted in the vicinity of the proposed project areas; description of the animal's observed behaviors and the activities occurring at the time.

Endangered Species Act (ESA)

NMFS has determined that no species listed as threatened or endangered under the ESA will be affected by issuing the incidental harassment authorizations under section 101(a)(5)(D) of the MMPA to Veritas and SOI for these three proposed on-ice seismic survey projects.

National Environmental Policy Act (NEPA)

In 1998, NMFS prepared an *Environmental Assessment on Regulations Governing the Taking of Ringed and Bearded Seals Incidental to On-ice Seismic Activities in the Beaufort Sea* (NMFS' 1998 EA). The information

provided in NMFS' 1998 EA led NMFS to conclude that implementation of the preferred alternative identified in the EA would not have a significant impact on the human environment. In considering the adequacy of NMFS' 1998 EA for analysis of potential environmental consequences associated with the 2008 proposed authorizations, NMFS conducted an informal review and analysis of that EA and prepared a supplemental EA (SEA) to address the following specific issues: (1) purpose and need; (2) affected environment to include spotted seals; (3) environmental consequences to include spotted seals; (4) cumulative impacts analysis; and (5) revised mitigation and monitoring measures. NMFS believes that the information in NMFS' 1998 EA remains valid, except as noted or modified in the SEA. Therefore, an Environmental Impact Statement was not prepared. NMFS issued a Finding of No Significant Impact Statement on February 14, 2008.

Determinations

For the reasons discussed in this document and in the identified supporting documents, NMFS has determined that the impact of the on-ice marine geophysical and seismic surveys by Veritas and SOI would result, at worst, in Level B harassment of small numbers of ringed seals, and that such taking will have no more than a negligible impact on this species. In addition, NMFS has determined that bearded and spotted seals, if present within the vicinity of the project area could also be taken incidentally, by no more than Level B harassment and that such taking would have a negligible impact on such species or stocks. Although there is not a specific number assessed for the taking of bearded and spotted seals due to their rare occurrence in the project area, NMFS believes that any take would be significantly lower than those of ringed seals and would be small relative to the overall population of spotted and bearded seals. NMFS also finds that the action will not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence uses.

In addition, no take by Level A harassment (injury) or death is anticipated or authorized, and harassment takes should be at the lowest level practicable due to incorporation of the mitigation measures described in this document.

Authorization

NMFS has issued two IHAs to Veritas and one IHA to SOI for the potential Level B harassment of small numbers of ringed seals, and potential Level B harassment of small numbers of bearded and spotted seals incidental to conducting on-ice marine geophysical and seismic surveys in the U.S. Beaufort Sea, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: February 14, 2008.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E8–3257 Filed 2–20–08; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Determination under the Textile and Apparel Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR Agreement)

February 15, 2008.

AGENCY: The Committee for the Implementation of Textile Agreements (CITA).

ACTION: Determination to add a product in unrestricted quantities to Annex 3.25 of the CAFTA-DR Agreement

EFFECTIVE DATE: February 21, 2008.

SUMMARY: The Committee for the Implementation of Textile Agreements (CITA) has determined that certain composite fabrics, as specified below, are not available in commercial quantities in a timely manner in the CAFTA-DR countries. The product will be added to the list in Annex 3.25 of the CAFTA-DR Agreement in unrestricted quantities.

FOR FURTHER INFORMATION CONTACT: Maria Dybczak, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3651.

FOR FURTHER INFORMATION ONLINE: http://web.ita.doc.gov/tacgi/CaftaReqTrack.nsf.Reference number: 38.2007.12.26.Fabric.Columbia SportswearCo.

SUPPLEMENTARYINFORMATION:

Authority: Section 203(o)(4) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (CAFTA-DR Act); the Statement of Administrative Action (SAA) accompanying the CAFTA-DR Act; Presidential Proclamations 7987 (February 28, 2006) and 7996 (March 31, 2006).

BACKGROUND:

The CAFTA-DR Agreement provides a list in Annex 3.25 for fabrics, yarns, and fibers that the Parties to the CAFTA-DR Agreement have determined are not available in commercial quantities in a timely manner in the territory of any Party. The CAFTA-DR Agreement provides that this list may be modified pursuant to Article 3.25(4)-(5), when the President of the United States determines that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the territory of any Party. See Annex 3.25, Note; see also section 203(o)(4)(C) of the CAFTA-DR Act.

The CAFTA-DR Act requires the President to establish procedures governing the submission of a request and providing opportunity for interested entities to submit comments and supporting evidence before a commercial availability determination is made. In Presidential Proclamations 7987 and 7996, the President delegated to CITA the authority under section 203(o)(4) of the CAFTA-DR Act for modifying the Annex 3.25 list. On March 21, 2007, CITA published final procedures it would follow in considering requests to modify the Annex 3.25 list (72 FR 13256).

On December 26, 2007, CITA received a commercial availability request from Columbia Sportswear Company (Columbia) for a composite fabric consisting of a woven face fabric and a knit backing fabric laminated together by means of a chemical adhesive, of the specifications detailed below. On December 28, 2007, in accordance with CITA's procedures , CITA notified interested parties of, and posted on its website, the accepted petition and requested that interested entities provide by January 10, 2008, a response advising of its objection to the commercial availability request or its ability to supply the subject product. CITA also explained that rebuttals to responses were due to CITA by January 16, 2008.

On January 7, 2008, Polartec, LLC (Polartec) submitted a response with an offer to supply, advising CITA of its objection to the request and explaining its ability to supply the fabric as specified in the request in commercial quantities in a timely manner. In its response, Polartec explained that it had been contacted by Columbia and that it had engaged in extensive discussions regarding development and production of the fabric. Polartec claimed that the sample fabric it had provided Columbia in November 2007 was a substitutable product and a reasonable alternative to

the specified product. Polartec further stated that while there had been some difficulties in sourcing one component of the final fabric, a woven face fabric, that product was currently available, and that any concerns Columbia had with respect to the sample previously provided could be addressed.

On January 16, 2008, Columbia submitted its rebuttal to Polartec's response. In its submission, Columbia indicated that it had made significant efforts to produce the fabric with Polartec, and had provided the company ample opportunity to develop the product. Columbia argued that despite its efforts to source the product from Polartec, Polartec was unable to substantiate its claims that it could produce the fabric as specified in a timely manner. Columbia asserted that Polartec's inability to source different components of the final fabric as specified, namely the woven face fabric and the embossing, was the reason that the sample provided by Polartec differed substantially from the specifications Columbia required. Therefore, Columbia argued that Polartec is unable to supply the fabric in question in a timely manner.

On January 24, 2008, in accordance with section 203(o)(4) of the CAFTA-DR Act, Article 3.25 of the CAFTA-DR Agreement, and section 8(c)(4) of CITA's procedures, because there was insufficient information to make a determination within 30 days, CITA extended the period of making a determination by 14 U.S. business days.

On February 6, 2008, in accordance with section 8(c)(4)(i) of CITA's final procedures, CITA held a public meeting with representatives from Columbia, Polartec, and Burlington Worldwide, during which the interested entities presented evidence and arguments to CITA regarding Polartec's stated ability to provide the subject fabric in commercial quantities in a timely manner.

Section 203(o)(4)(C)(ii) of the CAFTA-DR Act provides that after receiving a request, a determination will be made as to whether the subject product is available in commercial quantities in a timely manner in the CAFTA-DR countries. In the instant case, the information on the record clearly indicates that Columbia made significant efforts to source the fabric in the CAFTA-DR region, specifically from Polartec, and that Polartec cannot supply the specified fabric in a timely manner. Therefore, in accordance with section 203(o) of the CAFTA-DR Act, and its procedures, as no interested entity has substantiated its ability to supply the subject product in commercial quantities in a timely manner, CITA has determined to add the specified fabric to the list in Annex 3.25 of the CAFTA-DR Agreement.

The subject fabric is added to the list in Annex 3.25 of the CAFTA-DR Agreement in unrestricted quantities. A revised list has been published on-line.

CITA notes that, in accordance with section 203(o)(4) of the CAFTA-DR Act, Article 3.25 of the CAFTA-DR Agreement, and section 9 of CITA's procedures, an interested entity may request CITA to remove or restrict the quantity of a product listed in Annex 3.25 six months after the product has been added. If CITA determines that the product is available in commercial quantities, or restricted quantities, in a timely manner in the CAFTA-DR countries, CITA will publish in the Federal Register a notice of its determination of removal or restriction. Accordingly, the product will be removed from the Annex 3.25 list, or its quantity restricted, six months after the publication date of CITA's determination.

Specifications:

HTS Subheading: 6001.22

(a) Woven Face Fabric:
- Fiber Content: 100% textured polyester with mechanical stretch
- Average Yam Number:
  - Warp: 114-126 metric/72 filament polyester (71-79 denier/72 filament polyester)
  - Filling: 107-118 metric/72 filament polyester (76-84 denier/72 filament polyester)
- Thread Count: 54-60 warp ends per centimeter x 45-50 filing picks per centimeter(137-152 warp end per inch x (114-126 filling picks per inch)
- Weave Type: 2x2 twill with mechanical stretch
- Weight: 100-110 grams per square meter (2.9-3.3 ounces per square yard)
- Finish: Piece dyed or printed; piece dyed or printed and embossed with engraved rollers

(b) Knit Back Fabric:
- Knit: 2 thread circular knit fleece (looped pile knit)
- Average Yam Number:
  - Face yam: 114 -127 metric/36 filament (71-79 denier/36 filament)
  - Fleece yam: 114-127 metric/144 filament (71-79 denier / 144 filament)
- Machine Gauge: 24
- Weight: 133-147 grams/sq. meter (3.9-4.3 oz. sq yd)
- Finish: Piece dyed or printed; piece dyed or printed and embossed with engraved rollers

NOTES: Face fabric treated with a durable water repellent finish that passes the AATCC Test ı22; Fabrics joined with a dot matrix adhesive; Fleece fabric has a mechanical anti-pill finish achieved by shearing the technical back and tumbling in the presence of heat.

≤Width: Minimum cuttable width of composite fabric is 143.5 cm (56.5 inches).

R. Matthew Priest,

Chairman, Committee for the Implen.entation of Textile Agreements.

[FR Doc. 08–784 Filed 2–15–08; 1:42 pm]

BILLING CODE 3510–DS–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Determination under the Textile and Apparel Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR Agreement)

February 15, 2008.

AGENCY: The Committee for the Implementation of Textile Agreements (CITA).

ACTION: Determination to add a product in unrestricted quantities to Annex 3.25 of the CAFTA-DR Agreement.

EFFECTIVE DATE: February 21, 2008.

SUMMARY: The Committee for the Implementation of Textile Agreements (CITA) has determined that certain wool blend coating fabrics, as specified below, are not available in commercial quantities in a timely manner in the CAFTA-DR countries. The product will be added to the list in Annex 3.25 of the CAFTA-DR Agreement in unrestricted quantities.

FOR FURTHER INFORMATION CONTACT: Maria Dybczak, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3651.

FOR FURTHER INFORMATION ON-LINE: http://web.ita.doc.gov/tacgi/CaftaReqTrack.nsf.Reference number: 39.2008.01.16.Fabric.Alston&Bird-Rothschild&Co.

SUPPLEMENTARYINFORMATION:

Authority: Section 203(o)(4) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (CAFTA-DR Act); the Statement of Administrative Action (SAA), accompanying the CAFTA-DR Act; Presidential Proclamations 7987 (February 28, 2006) and 7996 (March 31, 2006).

BACKGROUND:

The CAFTA-DR Agreement provides a list in Annex 3.25 for fabrics, yarns, and fibers that the Parties to the CAFTA-DR Agreement have determined are not available in commercial quantities in a timely manner in the territory of any Party. The CAFTA-DR Agreement provides that this list may be modified pursuant to Article 3.25(4)-(5), when the President of the United States determines that a fabric, yarn, or fiber is not available in commercial quantities

in a timely manner in the territory of any Party. See Annex 3.25, Note; see also section 203(o)(4)(C) of the Act.

The CAFTA-DR Act requires the President to establish procedures governing the submission of a request and providing opportunity for interested entities to submit comments and supporting evidence before a commercial availability determination is made. In Presidential Proclamations 7987 and 7996, the President delegated to CITA the authority under section 203(o)(4) of CAFTA-DR Act for modifying the Annex 3.25 list. On March 21, 2007, CITA published final procedures it would follow in considering requests to modify the Annex 3.25 list (72 FR 13256).

On January 16, 2008, the Chairman of CITA received a commercial availability request from Alston & Bird, LLP, on behalf of S. Rothschild & Co., Inc, and Herman Kay & Co., for certain wool blend coating fabrics of the specifications detailed below. On January 18, 2008, CITA notified interested parties of, and posted on its website, the accepted request and asked that interested entities provide, by January 31, 2008, a response advising of its objection to the commercial availability request or its ability to supply the subject product. CITA also asked that any rebuttals to responses be submitted to CITA by February 6, 2008.

No interested entity filed a response advising of its objection to the request or its ability to supply the subject product.

In accordance with Section 203(o)(4)(C) of the CAFTA-DR Act, and its procedures, as no interested entity submitted a response objecting to the request or expressing an ability to supply the subject product, CITA has determined to add the specified fabrics to the list in Annex 3.25 of the CAFTA-DR Agreement.

The subject fabrics are added to the list in Annex 3.25 of the CAFTA-DR Agreement in unrestricted quantities. A revised list has been published on-line.

Specifications:

HTSUS Classifications:
5111.30.9000, 5515.13.0510,
5515.22.0510,
5515.99.0510,5516.32.0510,
5516.33.0510
Fiber Content: 20 percent of more of man-made staple fibers and 36 to 80 percent of wool, cashmere or camelhair fiber (or any combination thereof), with a three percent fiber content allowance.
Yarn Size: Various
Fabric Weight: 17 to 23 ounces (482 to 652 grams)
Colors: Various
Finishing: Carbonized, fulled, dried, dyed, brushed, sheared, vaporized, rolled

R. Matthew Priest,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 08–785 Filed 2–15–08; 1:42 pm]

BILLING CODE 3510–DS–S

DEPARTMENT OF DEFENSE

Office of the Secretary

[DOD–2008–OS–0011]

Privacy Act of 1974; System of Records

AGENCY: Office of the Inspector General, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Office of the Inspector General (OIG) is altering a system of records to its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on March 24, 2008 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to Chief, FOIA/PA Office, Inspector General, Department of Defense, 400 Army Navy Drive, Room 201, Arlington, VA 22202–4703.

FOR FURTHER INFORMATION CONTACT: Mr. Darryl R. Aaron at (703) 604–9785.

SUPPLEMENTARY INFORMATION: The Office of the Inspector General notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, were submitted February 13, 2008, to the House Committee on Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: February 14, 2008

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

CIG 20

Defense Audit Management Information System (DAMIS) (November 29, 2002, 67 FR 71151)

CHANGES:

* * * * *

SYSTEM NAME:

Delete and replace with "Defense Automated Management Information System (DAMIS)."

SYSTEM LOCATION:

Delete and replace with "Perot Systems Government Services, 8270 Willow Oaks Corporate Drive, Willow Oaks 3, Fairfax, VA 22031–4615."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete and replace with "All active personnel employed by the Office of the Inspector General, Department of Defense, the Naval Audit Service, the Army Audit Agency, and the Air Force Audit Agency."

* * * * *

PURPOSE(S):

Delete and replace with "Information is used to maximize staff resources and to provide project cost summary data; to track staff hours allocated towards project preparation and active projects which will allow for more effective scheduling of unassigned personnel and to categorize indirect time expended for end-of-year reporting; to plan workloads, to assist in providing time and attendance to the centralized payroll system; and to schedule and track training."

* * * * *

SAFEGUARDS:

Delete and replace with "Access to DAMIS is protected through the use of assigned user/IDs and passwords for entry to the different subsystem applications. Once the user's credentials are acknowledged by the system, individual(s) are only allowed to perform predefined transactions/processes on files according to their access levels and functionality."

* * * * *

RETENTION AND DISPOSAL:

Delete and replace with "Master file contains data relating to audit projects, final reports, training, and time and attendance. Destroy/delete 20 years after the case is closed. System Outputs include specific use reports (not

required periodic reports) or results of queries on selected data. Keep in current file until no longer needed for conducting business, but not longer than 2 years, then destroy."

SYSTEM MANAGER(S) AND ADDRESS:

Delete and replace with "Technical Director, Corporate Analysis and Planning Division, Office of the Deputy Inspector General for Auditing, Office of the Inspector General, DoD, 400 Army Navy Drive, Arlington, VA 22202–4703."

NOTIFICATION PROCEDURE:

Delete and replace with "Individuals seeking access to records about themselves contained in this system of records should address written requests to the Chief, Freedom of Information Act Requester Service Center/Privacy Act Office, 400 Army Navy Drive, Arlington, VA 22202–4703.

Written request should contain the individual's full name, signature and work organization."

RECORD ACCESS PROCEDURES:

Delete and replace with "Individuals seeking access to records about themselves contained in this system of records should address written requests to the Chief, Freedom of Information Act Requester Service Center/Privacy Act Office, 400 Army Navy Drive, Arlington, VA 22202–4704.

Written request should contain the individual's full name, signature and work organization."

* * * * *

CIG–20

SYSTEM NAME:

Defense Automated Management Information System (DAMIS)

SYSTEM LOCATION:

Perot Systems Government Services, 8270 Willow Oaks Corporate Drive, Willow Oaks 3, Fairfax, VA 22031–4615.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All active personnel employed by the Office of the Inspector General, Department of Defense, the Naval Audit Service, the Army Audit Agency, and the Air Force Audit Agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name; current employment status; training courses scheduled and received, pay grade, handicap code, duty address, security clearance, audit project position, education number of training days, entered on duty date, date of release, and employee status code.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; DoD Directive 5106.1, Inspector General of the Department of Defense; and DoD Directive 8320.1, DoD Data Administration.

PURPOSE(S):

Information is used to maximize staff resources and to provide project cost summary data; to track staff hours allocated towards project preparation and active projects which will allow for more effective scheduling of unassigned personnel and to categorize indirect time expended for end-of-year reporting; to plan workloads, to assist in providing time and attendance to the centralized payroll system; and to schedule and track training.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the OIG compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated records are maintained on electronic storage media/magnetic tape.

RETRIEVABILITY:

Individual's name.

SAFEGUARDS:

Access to Defense Automated Management Information System is protected through the use of assigned user/IDs and passwords for entry to the different subsystem applications. Once entry is acknowledged by the system, individual(s) are only allowed to perform predefined transactions/processes on files according to their access levels and functionality.

RETENTION AND DISPOSAL:

Master file contains data relating to audit projects, final reports, training, and time and attendance. Destroy/delete 20 years after the case is closed.

System Outputs include specific use reports (not required periodic reports) or results of queries on selected data. Keep in current file until no longer needed for conducting business, but not longer than 2 years, then destroy.

SYSTEM MANAGER(S) AND ADDRESS:

Technical Director, Corporate Analysis and Planning Division, Office of the Deputy Inspector General for Auditing, Office of the Inspector General, DoD, 400 Army Navy Drive, Arlington, VA 22202–4703.

NOTIFICATION PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written requests to the Chief, Freedom of Information Act Requester Service Center/Privacy Act Office, 400 Army Navy Drive, Arlington, VA 22202–4703.

Written request should contain the individual's full name, signature, and work organization.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written requests to the Chief, Freedom of Information Act Requester Service Center/Privacy Act Office, 400 Army Navy Drive, Arlington, VA 22202–4703.

Written request should contain the individual's full name, signature, and work organization.

CONTESTING RECORD PROCEDURES:

The OIG's rules for accessing records and for contesting contents and appealing initial agency determinations are published in 32 CFR part 312 or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the subject individual and activity supervisors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–3210 Filed 2–20–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

United States Marine Corps; Privacy Act of 1974; System of Records

AGENCY: United States Marine Corps, DoD.

ACTION: Notice to delete three system of records notices.

SUMMARY: The U.S. Marine Corps is deleting three systems of records notices from its inventory of records systems subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a).

DATES: Effective March 24, 2008.

ADDRESSES: Send comments to Headquarters, U.S. Marine Corps, FOIA/PA Section (CMC–ARSE), 2 Navy Annex, Room 1005, Washington, DC 20380–1775.

FOR FURTHER INFORMATION CONTACT: Ms. Tracy D. Ross at (703) 614–4008.

SUPPLEMENTARY INFORMATION: The U.S. Marine Corps' records systems notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The U.S. Marine Corps proposes to delete three systems of records notices from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The changes to the system of records are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems reports.

February 14, 2008.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Deletions
MMN00018

SYSTEM NAME:

Base Security Incident Report System (February 22, 1993, 58 FR 10630).

REASON:

Navy/Marine system of records notice NM05580–1, Security Incident System, printed in the **Federal Register** on January 9, 2007, with the number of 72 FR 958 is a joint Navy and Marine Corps system that covers this collection. Accordingly, all files have been merged into this system.

MMN00036

SYSTEM NAME:

Identification Card Control (January 4, 2000, 65 FR 291).

REASON:

Navy/Marine system of records notice NM05512–2, Badge and Access Control System, printed in the **Federal Register** on August 15, 2007 with the number of 72 FR 45798 is a joint Navy and Marine Corps system that covers this collection. Accordingly, all files have been merged into this system.

MMN00038

SYSTEM NAME:

Amateur Radio Operator's File (January 4, 2000, 65 FR 291).

REASON:

Navy/Marine system of records notice NM05000–2, Program Management and Locator System printed in the **Federal Register** on January 24, 2008 with the number of 73 FR 4193 is a joint Navy and Marine Corps system that covers this collection. Accordingly, all files have been merged into this system.

[FR Doc. E8–3290 Filed 2–20–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[USAF–2008–0003]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to Add a System of Records Notice.

SUMMARY: The Department of the Air Force proposes to add a system of records notice to its inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The actions will be effective on March 24, 2008 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Air Force Privacy Act Officer, Office of Warfighting Integration and Chief Information Officer, SAF/XCX, 1800 Air Force Pentagon, Suite 220, Washington, DC 20330–1800.

FOR FURTHER INFORMATION CONTACT: Ms. Novella Hill at (703) 696–6518.

SUPPLEMENTARY INFORMATION: The Department of the Air Force's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 522a(r) of the Privacy Act of 1974, as amended, was submitted on February 13, 2008, to the House Committee on Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: February 14, 2008.

L.M. Bynum,

Alternate Federal Register Liaison Officer, Department of Defense.

FO36 AETC W

SYSTEM NAME:

Air Force Institute of Technology Management and Information System (AFITMIS).

SYSTEM LOCATION:

Air Force Institute of Technology (AFIT), AFIT Communications and Information Directorate, 2950 Hobson Way, Wright-Patterson Air Force Base, OH 45433–7765.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Faculty, staff, graduates, and students currently or previously enrolled in Air Force Institute of Technology (AFIT).

CATEGORIES OF RECORDS IN THE SYSTEM:

Name; address; telephone numbers (work, home, cell); Social Security Numbers (SSN); birth date; citizenship; e-Mail address; grades; and Foreign identification numbers and other documents associated with academics.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C 301, Departmental Regulations 10 U.S.C. 8013, Secretary of the Air Force; Air Force Instruction 36–2201, Air Force Training Program; Air Force Instruction 36–2301, Professional Military Education; and E.O. 9397(SSN).

PURPOSE(S):

To support the core functions for resident graduate education, management of students in civilian institution programs, and course management for civil engineering education programs. This system will provide faculty and staff one central repository for information on assigned individuals and students that provides up-to-date and streamlined educational data.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The Department of Defense "Blanket Routine Uses" published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Name and/or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s)

responsible for servicing the record system in performance of their official duties and who are properly screened and cleared for need-to-know. Additionally, records access is controlled by user profiles. Profiles/role control will ensure that only the data that should be accessible to that individual will appear on the screen.

RETENTION AND DISPOSAL:

Destroy 30 years after individual completes or discontinues a training course. Computer records are destroyed by erasing, deleting or overwriting. Paper records are destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Communications and Information Directorate, Air Force Institute of Technology, 2950 Hobson Way, Wright-Patterson Air Force Base, OH 45433–7765.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to or visit the Communications and Information Directorate, Air Force Institute of Technology, 2950 Hobson Way, Wright-Patterson Air Force Base, OH 45433–7765.

Include full name and Social Security Number. Individuals may visit Communications and Information Directorate Monday through Friday between the hours of 8 a.m. and 4 p.m. Identification is required.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to or visit the Communications and Information Directorate, Air Force Institute of Technology, 2950 Hobson Way, Wright-Patterson Air Force Base, OH 45433–7765.

Include full name and Social Security Number (SSN). Individuals may visit Office of the Communications and Information Directorate Monday through Friday between the hours of 8 a.m. and 4 p.m. Identification is required.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 33–332; 32 CFR Part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individuals; educational institutions, reports, testing agencies, and on-the-job training officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–3209 Filed 2–20–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Settlement Agreement Under the Comprehensive Environmental Response, Compensation and Liability Act

AGENCY: Department of the Air Force, Defense.

ACTION: Notice.

SUMMARY: Pursuant to Section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") of 1980, as amended, 42 U.S.C. 9622(i), notice is hereby given that the Department of the Air Force and Raytheon Company ("Raytheon") entered into a proposed Settlement Agreement and Administrative Order on Consent ("SA–AOC") to resolve their respective claims for CERCLA response costs relating to environmental response actions at Air Force Plant 44 located in Tucson, Arizona, which is part of the Tucson International Airport Area Superfund Site. The SA–AOC resolves the Air Force's claims under CERCLA Sections 106 and 107, 42 U.S.C. 9606 and 9607, in connection with Plant 44. Under the SA–AOC, Raytheon will pay up to $300,000 per year and up to $20 million in total to reimburse the Air Force for its past and future costs. The SA–AOC also resolves Raytheon's claims against the United States for CERCLA response costs incurred by the company at Plant 44. Under the SA–AOC, the United States, on behalf of the Air Force, will reimburse Raytheon for future CERCLA response costs incurred by the company that exceed $300,000 per year or $20 million in total.

DATES: The Department of the Air Force will receive for a period of thirty (30) days from the date of this publication comments relating to the SA–AOC.

ADDRESSES: Comments should be addressed to AFLOA/JACE, Environmental Litigation Branch (ATTN: Mr. Douglas D. Sanders), and either e-mailed to *AFLOAJACE.Workflow@pentagon.af.mil* or mailed to 112 Luke Avenue, Suite 343, Bolling AFB, DC 20032 and should refer to the "Department of the Air Force and Raytheon Company Settlement Agreement and Administrative Order on Consent Re: Air Force Plant 44." Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

FOR FURTHER INFORMATION CONTACT: Mr. Douglas D. Sanders either via e-mail at *Douglas.Sanders@pentagon.af.mil*, mail at 112 Luke Avenue, Suite 343, Bolling AFB, DC 20032, fax at (202) 767–1519, or phone at (202) 767–1577.

SUPPLEMENTARY INFORMATION: The SA–AOC may be examined at the Air Force Legal Operations Agency, Environmental Law & Litigation Division, 112 Luke Avenue, Suite 343 (Room 105), Bolling AFB, DC 20032. During the public comment period, the SA–AOC may also be examined on the following Air Force Web site: *http://www.wpafb.af.mil/asc/environmental/index.asp*. A copy of the SA–AOC may also be obtained by contacting Mr. Douglas D. Sanders at the contact information above.

Bao-Anh Trinh,

Air Force Federal Register Liaison Officer.

[FR Doc. E8–3193 Filed 2–20–08; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of Navy

[USN–2008–0007]

Privacy Act of 1974; System of Records

AGENCY: Department of Navy, Defense.

ACTION: Notice to add a system of records.

SUMMARY: The Department of Navy proposes to add a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on March 24, 2008 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Mrs. Doris Lama, Department of the Navy, 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, were submitted on February 13, 2008, to the

House Committee on Government Oversight and Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

February 14, 2008.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

NM01730–1

SYSTEM NAME:

Navy Chaplain Privileged Counseling Files.

SYSTEM LOCATION:

Organizational elements of the Department of the Navy. Official mailing addresses are published in the Standard Navy Distribution List that is available at: *http://doni.daps.dla.mil/sndl.aspx.*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy and Marine Corps members, their dependents and other individuals who have received pastoral counseling from Navy chaplains.

CATEGORIES OF RECORDS IN THE SYSTEM:

Confidential records compiled by a Navy chaplain to document his/her counseling duties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 5041, Headquarters, Marine Corps; and SECNAVINST 1320.9, Confidential Communications to Chaplains.

PURPOSE(S):

For Navy chaplains to provide and document confidential pastoral care given to counselees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DOD "Blanket Routine Uses" also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic media.

RETRIEVABILITY:

Counselee's name.

SAFEGUARDS:

Records are maintained in secure, limited access, or monitored areas. Physical entry by unauthorized persons is restricted through the use of locks, guards, passwords, or other administrative procedures. Access to personal information is limited to those individuals who require the records to perform their official assigned duties.

RETENTION AND DISPOSAL:

When no longer needed, chaplain will destroy documents by shredding or other means that leave the information unrecognizable.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Chaplains, 2000 Navy Pentagon, Washington, DC 20350–2000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the chaplain who provided the service. Official mailing addresses are published in the Standard Navy Distribution List that is available at: *http://doni.daps.dla.mil/sndl.aspx.*

The request should include full name, date of service, and address of the individual concerned and should be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the chaplain who provided the service. Official mailing addresses are published in the Standard Navy Distribution List that is available at *http://doni.daps.dla.mil/sndl.aspx.*

The request should include full name, date of service, and address of the individual concerned and should be signed.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual and chaplain.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–3289 Filed 2–20–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Office of Postsecondary Education; Overview Information; International Research and Studies Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2008

Catalog of Federal Domestic Assistance (CFDA) Number: 84.017A.

Dates:

Applications Available: February 21, 2008.

Deadline for Transmittal of Applications: April 7, 2008.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The International Research and Studies Program provides grants to conduct research and studies to improve and strengthen instruction in modern foreign languages, area studies, and other international fields.

Priorities: In accordance with 34 CFR 75.105(b)(2)(ii), these priorities are from the regulations for this program (34 CFR 660.10, 660.34).

Competitive Preference Priorities: For FY 2008 these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i) we award up to an additional five points to an application, depending on how well the application meets these priorities.

Competitive Preference Priority 1—Instructional Materials Applications

This priority is:

(a) The development of specialized instructional materials for use by students and teachers in foreign language and international studies that are focused on one or more of the following critical language areas: Arabic, Chinese, Japanese, Korean, Russian, as well as Indic, Iranian, and Turkic language families; or

(b) The development of tools, technologies and materials to assess foreign language competency or fluency in one or more of the following critical language areas: Arabic, Chinese, Japanese, Korean, Russian, as well as Indic, Iranian, and Turkic language families.

Competitive Preference Priority 2—Research, Surveys and Studies Applications

This priority is:

(a) The evaluation of instructional materials and foreign language

assessments, including those instructional materials and assessments produced with funds from Title VI of the Higher Education Act of 1965, as amended, and published in print or electronic media, to determine their efficacy in improving teaching and learning in one or more of the following critical language areas: Arabic, Chinese, Japanese, Korean, Russian, as well as Indic, Iranian, and Turkic language families; or

(b) The update, expansion, or consolidation of existing foreign language and international studies web-based databases and the evaluation of the materials that are disseminated through those databases, including user comments.

Note: You will receive up to an additional five points for responding to a competitive preference priority in your application. Applicants are expected to address only one competitive preference priority in each application, but regardless of how many priorities are addressed, no more than five points in total can be awarded to a single application.

Program Authority: 20 U.S.C. 1125.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 82, 84, 85, 86, 97, 98, and 99. (b) The regulations for this program in 34 CFR parts 655 and 660.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $1,642,000.

Estimated Range of Awards: $50,000–$200,000 per year.

Estimated Average Size of Awards: $117,000.

Estimated Number of Awards: 14.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* Public and private agencies, organizations, institutions, and individuals.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* Mr. Ed McDermott, U.S. Department of Education, 1990 K Street, NW., suite 6082, Washington, DC 20006–8521. *Telephone:* (202) 502–7636 or by *e-mail: ed.mcdermott@ed.gov.*

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

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 program. The International Research and Studies program has two schedules. Research, surveys, and studies applicants must use the application package for 84.017A–1. Instructional materials applicants must use the application package for 84.017A–3. Page Limit: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative to the equivalent of no more than 30 pages, using the following standards:

- A "page" is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides. Page numbers and an identifier may be outside of the 1″ margin.
- Double space (no more than three lines per vertical inch) all text in the application narrative, except titles, headings, footnotes, quotations, references, captions and all text in charts, tables, figures, and graphs. These items may be single spaced. Charts, tables, figures, and graphs in the application narrative count toward the page limit.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch). However, you may use a 10 point font in charts, tables, figures, and graphs.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman and Arial Narrow) will not be accepted.

The page limit does not apply to Part I, the Application for Federal Assistance (SF 424); the supplemental information form required by the Department of Education; Part II, the budget information summary form (ED Form 524); or Part IV, the assurances and certifications. The page limit also does not apply to a table of contents. If, however, you include any attachments or appendices not specifically requested, these items will be counted as part of your program narrative (Part III) for purposes of the page limit requirement. You must include your complete response to the selection criteria in the program narrative.

We will reject your application if you exceed the page limit; or if you apply other standards and exceed the equivalent of the page limit.

3. *Submission Dates and Times:*

Applications Available: February 21, 2008.

Deadline for Transmittal of Applications: April 7, 2008.

Applications for grants under this program must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, 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** in section VII in this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

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 in this notice.

6. *Other Submission Requirements*: Applications for grants under this program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the International Research and Studies Program, CFDA Number 84.017A, must be submitted electronically using 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.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement and submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the International Research and Studies Program 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 84.017, not 84.017A).

Please note the following:

- 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 submission 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 program 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/Grants.govRegistrationBrochure.pdf*). You also must provide on your application the same D–U–N–S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to 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 qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- 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).
- 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, toll free, 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 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 under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice 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.

Exception to Electronic Submission Requirement: You qualify for an

exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Ed McDermott, U.S. Department of Education, 1990 K Street, NW., Suite 6082, Washington, DC 20006–8521. FAX: (202) 502–7860.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. 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 84.017A), 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 84.017A), 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 qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You 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 84.017A), 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 sections 655.31, 660.31, 660.32, and 660.33 and are as follows:

For instructional materials—

Need for the project (10 points); Potential for the use of materials in other programs (5 points); Account of related materials (10 points); Likelihood of achieving results (10 points); Expected contribution to other programs (5 points); Plan of operation (10 points); Quality of key personnel (5 points); Budget and cost effectiveness (5 points); Evaluation plan (15 points); Adequacy of resources (5 points); Description of final form of materials (5 points); and Provisions for pretesting and revision (15 points).

For research, surveys and studies—

Need for the project (10 points); Usefulness of expected results (10 points); Development of new knowledge (10 points); Formulation of problems and knowledge of related research (10 points); Specificity of statement of procedures (5 points); Adequacy of methodology and scope of project (10 points); Plan of operation (10 points); Quality of key personnel (10 points); Budget and cost effectiveness (5 points); Evaluation plan (15 points); and Adequacy of resources (5 points).

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 notify you informally, also.

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 in this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section in 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 directed by the Secretary under 34 CFR 75.118. Grantees are required to use the electronic data instrument International Resource Information System (IRIS) to complete the final report. Electronically formatted instructional materials such as CDs, DVDs, videos, computer

diskettes and books produced by the grantee as part of the grant approved activities are also acceptable as final reports. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the objective for the International Research and Studies (IRS) program is to conduct research and support the development of materials in less commonly taught languages and area studies to inform international education.

The Department will use the following measures to evaluate the program's success in meeting this objective.

IRS Performance Measure 1: Number of outreach activities initiated by IRS projects that are adopted or further disseminated within a year, divided by the total number of IRS projects conducted in the current year.

IRS Performance Measure 2: Percent of IRS projects judged to be successful by the program officer, based on a review of information provided in annual performance reports.

The information provided by grantees in their performance reports submitted via the electronic International Resource Information System (IRIS) performance reporting tool will be the source of data for these measures.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Ed McDermott, International Education Programs Service, U.S. Department of Education, 1990 K Street, NW., suite 6082, Washington, DC 20006–8521. *Telephone:* (202) 502–7636 or by *e-mail: ed.mcdermott@ed.gov.*

If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Alternative Format: Individuals with disabilities can obtain this document and a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice *Electronic Access to This Document:* You can 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: February 14, 2008.

Diane Auer Jones,

Assistant Secretary for Postsecondary Education.

[FR Doc. E8–3261 Filed 2–20–08; 8:45 am]

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DEPARTMENT OF EDUCATION

Office of Safe and Drug-Free Schools; Overview Information; Partnerships in Character Education Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2008

Catalog of Federal Domestic Assistance (CFDA) Number: 84.215S.

Dates:

Applications Available: February 21, 2008.

Deadline for Transmittal of Applications: March 31, 2008.

Deadline for Intergovernmental Review: May 30, 2008.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: Under this program we support Federal grants to design and implement character education programs that can be integrated into classroom instruction, that are consistent with State academic content standards. Such programs may be carried out in conjunction with other educational reform efforts, and must take into consideration the views of parents, students, students with disabilities (including those with mental or physical disabilities), and other members of the community, including members of private, nonprofit organizations or entities, including faith-based organizations and community organizations.

Priorities: In accordance with 34 CFR 75.105(b)(2)(iv), this priority is from Title V, Part D, Subpart 3, Section 5431 of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001 (ESEA) (20 U.S.C. 7247).

Absolute Priority: For FY 2008 and any subsequent years in which we make awards from the list of unfunded applicants from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

The design and implementation of character education programs that are able to be—

(A) Integrated into classroom instruction and consistent with State academic content standards; and

(B) carried out in conjunction with other educational reform efforts.

Competitive Preference Priority: Within this absolute priority, we give competitive preference to applications that address the following priority. This priority is from the notice of final priorities for discretionary grant programs, published in the **Federal Register** on January 25, 2005 (70 FR 3585).

Under 34 CFR 75.105(c)(2)(i), we award up to an additional 20 points to an application, depending on how well the application meets this priority. When using the priority to give competitive preference to an application, the Secretary will review applications using a two-stage process. In the first stage, the application will be reviewed without taking the priority into account. In the second stage of review, the applications rated highest in stage one will be reviewed for competitive preference.

This priority is:

The Secretary establishes a priority for projects propósing an evaluation plan that is based on rigorous scientifically based research methods used to assess the effectiveness of a particular intervention. The Secretary intends that this priority will allow program participants and the Department to determine whether the project produces meaningful effects on student achievement or teacher performance.

Evaluation methods using an experimental design are best for determining project effectiveness. Thus, when feasible, the project must use an experimental design under which participants—e.g., students, teachers, classrooms, or schools—are randomly assigned to participate in the project activities being evaluated or to a control group that does not participate in the project activities being evaluated.

If random assignment is not feasible, the project may use a quasi-experimental design with carefully matched comparison conditions. This alternative design attempts to approximate a randomly assigned control group by matching participants—e.g., students, teachers,

classrooms, orchools—with non-participants having similar pre-program characteristics.

In cases where random assignment is not possible and participation in the intervention is determined by a specified cutting point on a quantified continuum of scores, regression discontinuity designs may be employed.

For projects that are focused on special populations in which sufficient numbers of participants are not available to support random assignment or matched comparison group designs, single-subject designs such as multiple baseline or treatment-reversal or interrupted time series that are capable of demonstrating causal relationships can be employed.

Proposed evaluation strategies that use neither experimental designs with random assignment nor quasi-experimental designs using a matched comparison group nor regression discontinuity designs will not be considered responsive to the priority when sufficient numbers of participants are available to support these designs. Evaluation strategies that involve too small a number of participants to support group designs must be capable of demonstrating the causal effects of an intervention or program on those participants.

The proposed evaluation plan must describe how the project evaluator will collect—before the project intervention commences and after it ends—valid and reliable data that measure the impact of participation in the program or in the comparison group.

Points awarded under this priority will be determined by the quality of the proposed evaluation method. In determining the quality of the evaluation method, we will consider the extent to which the applicant presents a feasible, credible plan that includes the following:

(1) The type of design to be used (that is, random assignment or matched comparison). If matched comparison, include in the plan a discussion of why random assignment is not feasible.

(2) Outcomes to be measured.

(3) A discussion of how the applicant plans to assign students, teachers, classrooms, or schools to the project and control group or match them for comparison with other students, teachers, classrooms, or schools.

(4) A proposed evaluator, preferably independent, with the necessary background and technical expertise to carry out the proposed evaluation. An independent evaluator does not have any authority over the project and is not involved in its implementation.

In general, depending on the implemented program or project, under a competitive preference priority, random assignment evaluation methods will receive more points than matched comparison evaluation methods.

Definitions

As used in this notice—

Scientifically based research (section 9101(37) ESEA):

(A) Means research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs; and

(B) Includes research that—

(i) Employs systematic, empirical methods that draw on observation or experiment;

(ii) Involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

(iii) Relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;

(iv) Is evaluated using experimental or quasi-experimental designs in which individuals entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random-assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls;

(v) Ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and

(vi) Has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

Random assignment or experimental design means random assignment of students, teachers, classrooms, or schools to participate in a project being evaluated (treatment group) or not participate in the project (control group). The effect of the project is the difference in outcomes between the treatment and control groups.

Quasi-experimental designs include several designs that attempt to approximate a random assignment design.

Carefully matched comparison groups design means a quasi-experimental design in which project participants are matched with non-participants based on key characteristics that are thought to be related to the outcome.

Regression discontinuity design means a quasi-experimental design that closely approximates an experimental design. In a regression discontinuity design, participants are assigned to a treatment or control group based on a numerical rating or score of a variable unrelated to the treatment such as the rating of an application for funding. Eligible students, teachers, classrooms, or schools above a certain score ("cut score") are assigned to the treatment group and those below the score are assigned to the control group. In the case of the scores of applicants' proposals for funding, the "cut score" is established at the point where the program funds available are exhausted.

Single subject design means a design that relies on the comparison of treatment effects on a single subject or group of single subjects. There is little confidence that findings based on this design would be the same for other members of the population.

Treatment reversal design means a single subject design in which a pre-treatment or baseline outcome measurement is compared with a post-treatment measure. Treatment would then be stopped for a period of time, a second baseline measure of the outcome would be taken, followed by a second application of the treatment or a different treatment. For example, this design might be used to evaluate a behavior modification program for disabled students with behavior disorders.

Multiple baseline design means a single subject design to address concerns about the effects of normal development, timing of the treatment, and amount of the treatment with treatment-reversal designs by using a varying time schedule for introduction of the treatment and/or treatments of different lengths or intensity.

Interrupted time series design means a quasi-experimental design in which the outcome of interest is measured multiple times before and after the treatment for program participants only.

Note: Due to the very short time frame that applicants have to select a proposed evaluator for the required competitive priority, we remind applicants that they can, under 34 CFR 80.36, use informal procedures to select a proposed contractor for this purpose. For example, § 80.36 authorizes simple informal procedures to select contractors for contracts under the simplified acquisition threshold of $100,000. 34 CFR 80.36(d)(1). The regulations only require that you request offers from an adequate number of sources.

In addition, even if you expect that the evaluation of your project would cost more than $100,000, the regulations recognize special cases where a contractor must be selected within a very limited time period. Again, you need to request proposals from an adequate number of qualified sources and select the contractor whose proposal is most advantageous to the program, considering price and other selection factors. In these situations, if informal solicitation does not result in an adequate number of proposals, you may select a single bidder so long as you document the facts that formed the basis for your decision. 34 CFR 80.36(d)(1), (3) & (4).

Invitational Priority: Within this absolute priority, we are particularly interested in applications that address the following invitational priority. Under 34 CFR 75.105(c)(1) we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

Faith-based and Community Organizations.

The Secretary is especially interested in applications that propose to engage faith-based and community organizations in the planning and development of character education programs and the delivery of services under this program.

Program Authority: 20 U.S.C. 7247.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98, 99 and 299. (b) The notice of final priority published in the **Federal Register** on January 25, 2005 (70 FR 3585).

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grant.

Estimated Available Funds: $1,106,865.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2009 and subsequent fiscal years from the list of unfunded applicants from this competition.

Estimated Range of Awards: For State educational agencies (SEAs), $500,000–$750,000. For local educational agencies (LEAs), $250,000–$500,000. We anticipate that applicants who request funding at the higher end of these ranges would respond to the competitive preference priority to implement experimental or quasi-experimental designs.

Estimated Average Size of Awards: For SEAs, $600,000 for each 12-month budget period. For LEAs, $350,000 for each 12-month budget period.

Minimum Award: Pursuant to Section 5431(a)(4) of the ESEA, SEAs must propose a total budget that is $500,000 or more for a single budget period. This restriction does not apply to applications from LEAs.

Estimated Number of Awards: 2.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months, of which no more than 12 months may be used for planning and program design.

III. Eligibility Information

1. *Eligible Applicants:*

(a)(1) An SEA in partnership with one or more LEAs; or

(2) An SEA in partnership with one or more LEAs and nonprofit organizations or entities, including faith-based and community organizations, and an Institute of Higher Education (IHE); and

(b)(1) An LEA or consortium of LEAs; or

(2) An LEA in partnership with one or more nonprofit organizations or entities, including faith-based and community organizations, and an IHE. Charter schools that are considered LEAs under State law are also eligible to apply.

Participation by Private School Children and Teachers.

Each eligible entity that receives a grant under this section shall provide, to the extent feasible and appropriate, for the participation of programs and activities under this section of students and teachers in private elementary and secondary schools.

2. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* Sharon J. Burton, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E322, Washington, DC 20202. *Telephone:* (202) 205–8122 or by *e-mail: sharon.burton@ed.gov.*

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

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: February 21, 2008.

Deadline for Transmittal of Applications: March 31, 2008.

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 in paper format 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* in section VII in this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: May 30, 2008.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* An SEA may use not more than three percent (3%) of the total funds received in any fiscal year for administrative purposes. This does not apply to LEAs. We reference regulations outlining funding restrictions in the *Applicable Regulations* section in 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 Partnerships in Character Education Program, CFDA Number 84.215S, is included in this project. We request your participation in Grants.gov.

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 the Partnerships in Character Education Program at *http://www.Grants.gov*. You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.215, not 84.215S).

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 submission 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/Grants.govRegistrationBrochure.pdf*). You also must provide on your application the same D-U-N-S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to 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, toll free, 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 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 under *For Further Information Contact* in section VII in this notice 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 84.215S), 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 84.215S), 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 84.215S), 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

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR part 75.210 in EDGAR and are listed in the application package.

2. *Review and Selection Process:* Additional factors we consider in selecting an application for an award are included in 20 U.S.C. 7247. We will ensure that, to the extent practicable, the projects for which we provide funding are equally distributed among the geographic regions of the United States, and among urban, suburban and rural areas.

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 Notice (GAN). We may notify you informally, also.

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 in this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section in 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 directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measure:* Under the Government Performance and Results Act (GPRA), two performance indicators have been established for the Partnerships in Character Education Program. The indicators are: the percentage of Partnerships in Character Education Program grantees that use an experimental or quasi-experimental design for their evaluation; and the percentage of Partnerships in Character Education Program grantees that use an experimental or quasi-experimental design for their evaluation that are conducted successfully, and that yield scientifically valid results. Consequently, applicants for a grant under this program are advised to give careful consideration to these two measures in conceptualizing the design, implementation, and evaluation of their proposed project. If funded, applicants will be asked to report data in their annual performance reports on evaluation outcomes. The Secretary will use this information to assess the overall quality of performance data obtained through rigorous evaluations conducted by grantees, and to respond to reporting requirements concerning this program established in Section 5431(h) of the ESEA.

VII. Agency Contact

For Further Information Contact: Sharon J. Burton, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E322, Washington, DC 20202. *Telephone:* (202) 205–8122 or by *e-mail: sharon.burton@ed.gov.*

If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Alternative Format: Individuals with disabilities can obtain this document and a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under *For Further Information Contact* in section VII in this notice.

Electronic Access to This Document: You can 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: February 15, 2008.

Deborah A. Price,

Assistant Deputy Secretary for Safe and Drug-Free Schools.

[FR Doc. E8–3250 Filed 2–20–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[Docket No. PP–305]

Notice of Availability of Draft Environmental Impact Statement and Public Hearings for the Proposed Montana Alberta Tie Ltd. International Transmission Line

AGENCY: U.S. Department of Energy.

ACTION: Notice of availability and public hearings.

SUMMARY: The Department of Energy (DOE) and the Montana Department of Environmental Quality (DEQ) as co-lead agencies, with the Department of the Interior's Bureau of Land Management (BLM) as a cooperating agency (together, the "Agencies"), announce the availability of the *"Federal Draft Environmental Impact Statement and the State of Montana Supplemental Draft Environmental Impact Statement for the Montana Alberta Tie Ltd. (MATL) 230–kV Transmission Line"* (DOE/EIS–0399) for public review and comment. The Agencies also announce three public hearings on the Draft EIS. The Draft EIS evaluates the environmental impacts of DOE's proposed Federal action of issuing a Presidential permit to MATL for the construction, operation, maintenance, and connection of a 230-kilovolt electric transmission line that would cross the U.S.-Canada border in the vicinity of Cut Bank, Montana. The proposed DEQ action is the issuance of a certificate of compliance under the Montana Facility Siting Act (MFSA) for construction of the electric transmission line within the State of Montana. BLM's proposed Federal action is issuance of a right-of-way grant to allow the transmission line to cross Federal lands within BLM's management responsibility.

DATES: The Agencies invite interested Members of Congress, state and local governments, other Federal agencies, American Indian tribal governments, organizations, and members of the public to provide comments on the Draft EIS during the public comment period. The public comment period started on February 15, 2008, with the publication in the **Federal Register** (73 FR 8869) by the U.S. Environmental Protection Agency of the Notice of Availability of the Draft EIS, and will continue until March 31, 2008. Written and oral comments will be given equal weight and all comments received or postmarked by that date will be considered by the Agencies in preparing the Final EIS. Comments received or postmarked after that date will be considered to the extent practicable.

Dates for the public hearings are:

1. March 11, 2008, 6–9 p.m., Great Falls, Montana.

2. March 12, 2008, 6–9 p.m., Cut Bank, Montana.

3. March 13, 2008, 6–9 p.m., Conrad, Montana.

Requests to speak at a specific public hearing should be received by Mr. Tom Ring as indicated in the **ADDRESSES** section below on or before March 10, 2008. Requests to speak may also be made at the time of registration for the hearing(s). However, persons who have submitted advance requests to speak will be given priority if time should be limited during the hearing.

ADDRESSES: Requests to speak at the public hearings should be addressed to:

Mr. Tom Ring, Environmental Sciences Specialist, Montana Department of Environmental Quality, P.O. Box 200901, Helena, MT 59620–0901, or (406) 444–6785, or via electronic mail at *matl@mt.gov.*

The locations of the public hearings are:

1. Civic Center, Missouri Room, Great Falls, Montana.

2. Voting Center, Cut Bank, Montana.

3. Blue Sky Villa, Norley Hall, Conrad, Montana.

Written comments on the Draft EIS may be addressed to Mr. Ring as indicated in the **ADDRESSES** section of this notice.

FOR FURTHER INFORMATION CONTACT: If you have any questions about the Presidential permit process, please contact Mrs. Ellen Russell at U.S. Department of Energy, Office of Electricity Delivery and Energy Reliability, Mail Stop OE–20, 1000 Independence Ave., SW., Washington, DC 20585, by telephone at 202–586–9624, or by electronic mail at *Ellen.Russell@hq.doe.gov.*

For general information on the DOE NEPA process, contact Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (GC–20), U.S. Department of Energy 1000 Independence Avenue, SW., Washington, DC 20585, Phone: 202–586–4600 or leave a message at 800–472–2756; Facsimile: 202–586–7031.

If you have questions about the Montana MFSA siting process, please contact Mr. Ring at the address provided above. For general information on the State of Montana Environmental Policy Act process contact Greg Hallsten, Environmental Science Specialist, at the same above address or by phone at 406–444–3276.

Availability of the Draft EIS

Copies of the Draft EIS have been distributed to appropriate Members of Congress, state and local government officials in Montana, American Indian tribal governments, and other Federal agencies, groups, and interested parties. Printed copies of the document may be obtained by contacting Mr. Ring at the above address. Copies of the Draft EIS and supporting documents are also available for inspection in Montana at the Conrad Public Library, Cut Bank Public Library, Dutton Public Library, Great Falls Public Library, and the Montana State Library. The Draft EIS is also available on the DOE NEPA Web site at *http://www.eh.doe.gov/nepa/documentspub.html* or on the State of Montana project Web site at *http://www.deq.mt.gov/mfs/MATL.asp.*

Issued in Washington, DC, on February 15, 2008.

Ellen Russell,

Acting Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. E8–3292 Filed 2–20–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting Notice

February 14, 2008.

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: February 21, 2008, 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: Kimberly D. Bose, 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.

930th—Meeting

REGULAR MEETING

[February 21, 2008, 10 a.m.]

Item No.	Docket No.	Company
	Administrative Agenda	
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	AD07–7–000	Wholesale Competition in Regions with Organized Electric Markets.
	RM07–19–000.	
E–2	RM07–15–000	Cross-Subsidization Restrictions on Affiliate Transactions.
E–3	RM07–21–000	Blanket Authorization Under FPA Section 203.
E–4	PL07–1–001	FPA Section 203 Supplemental Policy Statement.
E–5	ER91–195–000	Western Systems Power Pool.
	EL07–69–000	Western Systems Power Pool Agreement.
E–6	ER07–476–000	ISO New England Inc. and New England Power Pool.
	RM06–8–000	Long-Term Firm Transmission Rights in Organized Electricity Markets.
E–7	ER07–1372–000	Midwest Independent Transmission System Operator, Inc.
	ER07–1372–001.	
E–8	ER06–278–000	The Nevada Hydro Company, Inc.
	ER06–278–001.	
	ER06–278–002.	
	ER06–278–003.	
	ER06–278–004.	
	ER06–278–005.	
	ER06–278–006.	
E–9	OMITTED.	
E–10	RC08–1–000	Southeastern Power Administration.
E–11	RC07–3–001	Lee County, Florida.
	RC07–5–001	Solid Waste Authority of Palm Beach County, Florida.
E–12	RM06–16–000	Mandatory Reliability Standards for the Bulk-Power System.
	RR08–1–000	North American Electric Reliability Corporation.
E–13	EF07–2021–000	United States Department of Energy—Bonneville Power Administration.
E–14	OMITTED.	
E–15	ER02–136–007	Allegheny Power.
	ER02–136–008.	
E–16	ER05–715–002	ISO New England Inc.
E–17	EL02–129–004	Southern California Water Company.
E–18	EL05–50–003	Jersey Central Power & Light Company v. Atlantic City Electric Company, Delmarva Power & Light Company, PECO Energy Company and Public Service Electric and Gas Company.
E–19	ER05–18–002	New Dominion Energy Cooperative.
	ER05–309–002	Old Dominion Electric Cooperative.
E–20	ER07–429–001	New York State Reliability Council.
E–21	ER07–547–002	ISO New England Inc. and New England Power Pool.
E–22	ER07–799–002	Norwalk Power, LLC.
	ER07–799–003.	
	EL07–61–001.	
	EL07–61–002.	
E–23	ER06–1420–002	Midwest Independent Transmission System Operator, Inc.
	ER06–1420–003.	
E–24	ER93–465–039	Florida Power & Light Company.
	ER93–465–040.	
	ER96–417–008.	
	ER96–417–009.	
	ER96–1375–009.	
	ER96–1375–010.	
	OA96–39–016.	
	OA96–39–017.	
	OA97–245–009.	
	OA97–245–010.	
E–25	EL03–230–003	ExxonMobil Corporation v. Entergy Services, Inc.

REGULAR MEETING—Continued

[February 21, 2008, 10 a.m.]

Item No.	Docket No.	Company
	Gas	
G–1	RP06–231–003	Norstar Operating, LLC v. Columbia Gas Transmission Corporation.
	RP06–231–004.	
	RP06–365–001	Columbia Gas Transmission Corporation.
	RP06–365–002.	
G–2	RP07–509–003	Columbia Gas Transmission Corporation.
G–3	RP07–500–003	Columbia Gulf Transmission Company.
G–4	RP96–312–176	Tennessee Gas Pipeline Company.
	Hydro	
H–1	P–12447–001	Fort Dodge Hydroelectric Development Company.
H–2	P–7115–039	Homestead Energy Resources, LLC.
H–3	P–12911–005	The Electric Plant Board of the City of Paducah, Kentucky.
H–4	P–2426–208	California Department of Water Resources and the City of Los Angeles.
H–5	P–2225–011	Public Utility District No. 1 of Pend Oreille County, Washington.
	DI07–1–001.	
H–6	P–1494–328	Grand River Dam Authority.
	Certificates	
C–1	CP07–430–000	Kinder Morgan Interstate Gas Transmission LLC.
C–2	CP04–13–004	Saltville Gas Storage Company, LLC.
C–3	OMITTED.	
C–4	OMITTED.	
C–5	CP08–60–000	Arlington Storage Company, LLC.
C–6	CP06–459–001	Transwestern Pipeline Company, LLC.
	CP07–9–001	El Paso Natural Gas Company.
C–7	CP07–32–002	Gulf South Pipeline Company, LP.
	CP07–32–003.	
	CP07–105–001.	
	CP07–110–001	Destin Pipeline Company, L.L.C.
C–8	CP06–407–001	Missouri Interstate Gas, LLC.
	CP06–408–001	Missouri Gas Company, LLC.
	CP06–409–001	Missouri Pipeline Company, LLC.
	RP06–274–001	Missouri Interstate Gas, LLC.
	CP06–407–002.	
C–9	CP06–470–001	Southern LNG, Inc.
	CP06–471–002	Elba Express Company, L.L.C.
	CP06–472–002.	
	CP06–473–002.	
	CP06–474–002	Southern Natural Gas Company.
C–10	OMITTED.	
C–11	OMITTED.	

Kimberly D. Bose,

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 *http://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 Springer 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. E8–3287 Filed 2–20–08; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2007–0033; FRL–8530–9]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NSPS for Polymeric Coating of Supporting Substrates Facilities (Renewal); EPA ICR Number 1284.08, OMB Control Number 2060–0181

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office

of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before March 24, 2008.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2007–0033, to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by e-mail to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Leonard Lazarus, Compliance Assessment and Media Programs Division (CAMPD), Office of Compliance, (2223A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–6369; fax number: (202) 564–0050; e-mail address: *lazarus.leonard@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On March 9, 2007 (72 FR 10735), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–EPA–HQ–OECA–2007–0033, which is available for public viewing online at *http://www.regulations.gov*, or in person viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov*, as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov*.

Title: NSPS for Polymeric Coating of Supporting Substrates Facilities (Renewal)

ICR Numbers: EPA ICR Number 1284.08, OMB Control Number 2060–0181.

ICR Status: This ICR is scheduled to expire on March 31, 2008. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while his submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: Particulate matter emissions from polymeric coating of supporting substrates facilities cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Therefore, NSPS were promulgated for this source category.

The control of emissions of volatile organic compounds (VOCs) from polymeric coating of supporting substrates facilities requires not only the installation of properly designed equipment, but also the operation and maintenance of that equipment. Emissions of VOCs from polymeric coating of supporting substrates facilities are generated by each coating operation and the associated onsite coating mix preparation equipment used to prepare coatings for the polymeric coating of supporting substrates. These standards rely on: The capture of VOC emissions by a partial or total enclosure around the coating operation, and/or by covers on each piece of affected mix preparation equipment; the reduction of VOC emissions to the atmosphere from the coating operation to a control device, and/or from the affected covered equipment to a control device; and the recovery of VOC emissions at one coating operation if the liquid material balance is used to demonstrate compliance.

In order to ensure compliance with these standards, adequate reporting and recordkeeping is necessary. In the absence of such information, enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act.

All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. Notifications are used to inform the Agency or delegated authority when a source becomes subject to the standard. The reviewing authority may then inspect the source to check if the pollution control devices are properly installed and operated. Performance test reports are needed as these are the Agency's record of a source's initial capability to comply with the emission standard and note the operating conditions under which compliance was achieved. The quarterly reports are used for problem identification, as a check on source operation and maintenance, and for compliance determinations. The standard also requires semiannual reporting of deviations from monitored opacity, as this is a good indicator of the source's compliance status.

Responses to this information collection are mandatory (40 CFR part 60, subpart VVV). Any information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in title 40, chapter 1, part 2, subpart B—Confidentiality of Business Information (see 40 CFR part 2; 41 FR 36902, September 1, 1976; amended by 43 FR 40000, September 8, 1978; 43 FR 42251, September 20, 1978; 44 FR 17674, March 23, 1979).

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 83 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying

information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Polymeric Coating of Supporting Substrates Facilities.

Estimated Number of Respondents: 53.

Frequency of Response: Initially, quarterly and semiannually.

Estimated Total Annual Hour Burden: 12,623 hours.

Estimated Total Annual Cost: $1,410,367, which includes $48;500 Capital Startup costs, $556,500 annualized Operating and Maintenance (O&M) costs, and $805,367 annualized Labor costs.

Changes in the Estimates: There are no changes in the labor hours or costs in this ICR compared to the previous ICR (see rounding-off adjustment below). This is due to two considerations. First, the regulations have not changed over the past three years and are not anticipated to change over the next three years. Secondly, the growth rate for the industry is very low, negative or non-existent, so there is no significant change in the overall burden.

Since there are no changes in the regulatory requirements and there is no significant industry growth, the labor hours and cost figures in the previous ICR are used in this ICR and there is no change in burden to industry.

The labor hour and cost burden in this ICR are the same as in the previous ICR; however, there is a small adjustment in the "Estimated Total Annual Cost" due to rounding up/down in the previous ICR.

Dated: February 12, 2008.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E8–3228 Filed 2–20–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2007–0054; FRL–8531–1]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Vinyl Chloride (Renewal); EPA ICR Number 0186.11, OMB Control Number 2060–0071

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before March 24, 2008.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2007–0054, to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by e-mail to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; e-mail address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On March 9, 2007 (72 FR 10735), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2007–0054, which is available for public viewing online at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov,* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: NESHAP for Vinyl Chloride (Renewal).

ICR Numbers: EPA ICR Number 0186.11, OMB Control Number 2060–0071.

ICR Status: This ICR is scheduled to expire on April 30, 2008. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Vinyl Chloride (VC) were proposed on December 24, 1975, promulgated on October 21, 1976, and

amended on June 7, 1977, September 30, 1986, September 23, 1988, and December 23, 1992. These standards apply to exhaust gases and oxychlorination vents at ethylene dichloride (EDC) plants; exhaust gas at vinyl chloride monomer (VCM) plants; and exhaust gases, reactor opening losses, manual vent valves, and stripping residuals at polyvinyl chloride (PVC) plants. The standards also apply to relief valves and fugitive emission sources at all three types of plants.

In the Administrator's judgment, vinyl chloride emissions from polyvinyl chloride (PVC), ethylene dichloride (EDC), and vinyl chloride monomer (VCM) plants cause or contribute to air pollution that may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness. Vinyl chloride is a known human carcinogen which causes a rare cancer of the liver. In order to ensure compliance with the standard, adequate recordkeeping and reporting is necessary. This information enables the Agency to: (1) Ensure that facilities that are affected continue to operate the control equipment and use proper work practices to achieve compliance; (2) notification of startup indicates to enforcement personnel when a new facility has been constructed and is thus subject to the standards; and (3) provides a means for ensuring compliance.

The standards require daily measurements from the continuous monitoring system and of the reactor pressure and temperature. Establishment of a continuous monitoring program is a high priority of the Agency. The continuous monitoring system monitors VC emissions from the stack to judge compliance with the numerical limits in the standards. The parameters are used to judge the operation of the reactor so that the source and EPA will be aware of improper operation and maintenance. The standards implicitly require the initial reports required by the General Provisions of 40 CFR 61.7 and 61.9. These initial reports include application for approval of construction or modification, and notification of startup. The standards also require quarterly reporting of vinyl chloride emissions from stripping, reactor openings, and exhausts. Reports must be submitted within 10 days of each valve discharge and manual vent valve discharge.

The owner/operator must make the following one-time-only reports: Application for approval of construction or modification; notification of startup; application of a waiver of testing (if desired by source); and an initial report. The initial report includes a list of the equipment installed for compliance, a description of the physical and functional characteristics of each piece of equipment, a description of the methods which have been incorporated into the standard operation procedures for measuring or calculating emissions, and a statement that equipment and procedures are in place and are being used. Generally, the one-time-only reports are required of all sources subject to NESHAP regulation.

Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least five years following the date of such measurements, maintenance reports, and records. All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. This information is being collected to assure compliance with 40 CFR part 63, subpart W, and 40 CFR part 63, subpart A, as authorized in section 112 and 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined to be private.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Number for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 60 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Vinyl Chloride.

Estimated Number of Respondents: 28.

Frequency of Response: On occasion, quarterly and initially.

Estimated Total Annual Hour Burden: 11,825.

Estimated Total Annual Cost: $2,014,515, which is comprised of $0 annualized Capital Startup costs, $1,260,000 in annualized Operating and Maintenance (O&M) costs, and $754,515 annualized Labor costs.

Changes in the Estimates: There is no change in the labor hours or cost in this ICR compared to the previous ICR. This is due to two considerations. First, the regulations have not changed over the past three years and are not anticipated to change over the next three years. Secondly, the growth rate for the industry is very low, negative or non-existent, so there is no significant change in the overall burden.

Since there are no changes in the regulatory requirements and there is no significant industry growth, the labor hours and cost figures in the previous ICR are used in this ICR and there is no change in burden to industry.

Dated: February 12, 2008.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E8–3229 Filed 2–20–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2007–0271; FRL–8530–8]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Lead-Based Paint Pre-Renovation Information Dissemination—TSCA Sec. 406(b); EPA ICR No. 1669.05, OMB No. 2070–0158

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection activity and its expected burden and costs.

DATES: Additional comments may be submitted on or before March 24, 2008.

ADDRESSES: Submit your comments, referencing docket ID Number EPA–HQ–OPPT–2007–0271 to (1) EPA online using *http://www.regulations.gov* (our preferred method), by e-mail to *oppt.ncic@epa.gov* or by mail to: Document Control Office (DCO), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, Mail Code: 7407T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, Mailcode: 7408–M, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–554–1404; e-mail address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On June 13, 2007 (72 FR 32642), EPA sought comments on this renewal ICR pursuant to 5 CFR 1320.8(d). EPA received one comment during the comment period. The comment is addressed in Attachment 4 of the Supporting Statement. Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OPPT–2007–0271 which is available for online viewing at *http://www.regulations.gov,* or in person inspection at the OPPT Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center 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 Pollution Prevention and Toxics Docket is 202–566–0280.

Use EPA's electronic docket and comment system at *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: Lead-Based Paint Pre-Renovation Information Dissemination—TSCA Sec. 406(b).

ICR Numbers: EPA ICR No. 1669.05, OMB Control No. 2070–0158.

ICR Status: This ICR is currently scheduled to expire on February 29, 2008. 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 information collection involves third-party notification to owners and occupants of housing that will allow these individuals to avoid exposure to lead-contaminated dust and lead-based paint debris that are sometimes generated during renovations of housing where lead-based paint is present, thereby protecting public health. Since young children are especially susceptible to the hazards of lead, owners and occupants with children can take action to protect their children from lead poisonings. Section 406(b) of the Toxic Substances Control Act (TSCA) requires EPA to promulgate regulations requiring certain persons who perform renovations of target housing for compensation to provide a lead hazard information pamphlet (developed under TSCA section 406(a)) to the owner and occupants of such housing prior to beginning the renovation. Those who fail to provide the pamphlet as required may be subject to both civil and criminal sanctions.

Responses to the collection of information are mandatory (see 40 CFR part 745). Respondents may claim all or part of a notice as CBI. EPA will disclose information that is covered by a CBI claim only to the extent permitted by, and in accordance with, the procedures in 40 CFR part 2.

Burden Statement: The annual public notification and recordkeeping burden for this collection of information is estimated to be 0.09 hours per response. Burden means the total time, effort or financial resources expended by persons to generate, maintain, retain or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Entities potentially affected by this action are persons who perform renovations of certain types of housing, constructed prior to 1978, for compensation.

Frequency of Collection: On occasion.

Estimated No. of Respondents: 2,625,500.

Estimated Total Annual Burden on Respondents: 3,122,486 hours.

Estimated Total Annual Materials Costs: $9,428,849.

There is a net decrease of 339,056 hours (from 3,461,542 hours to 3,122,486 hours) in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This decrease primarily reflects EPA's revised estimates in the number of renovation events in rental housing units. A more detailed analysis of the change in burden appears in the Supporting Statement. This change is an adjustment.

Dated: February 12, 2008.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E8–3230 Filed 2–20–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–SFUND–2007–0278; FRL–8531–2]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Continuous Release Reporting Regulations (CRRR) Under CERCLA 1980 (Renewal); EPA ICR No. 1445.07, OMB Control No. 2050–0086

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 an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before March 24, 2008.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–SFUND–2007–0278, to (1) EPA online using *www.regulations.gov* (our preferred method), by e-mail to *superfund.docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Superfund Docket (2822T), 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Lynn M. Beasley, Regulation and Policy Development Division, Office of Emergency Management, (5104A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–1965; fax number: (202) 564–2625: e-mail address: *Beasley.lynn@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On September 28, 2007 (72 FR 55197), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments during the comment period. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–SFUND–2007–0278, which is available for online viewing at *www.regulations.gov*, or in person viewing at the Superfund Docket 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 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Superfund Docket is 202–566–0276.

Use EPA's electronic docket and comment system at *www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov*.

Title: Continuous Release Reporting Regulations (CRRR) under CERCLA 1980 (Renewal).

ICR numbers: EPA ICR No. 1445.07, OMB Control No. 2050–0086.

ICR Status: This ICR is scheduled to expire on February 29, 2008. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, 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: Section 103(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, requires the person in charge of a vessel or facility to immediately notify the National Response Center (NRC) of a hazardous substance release into the environment if the amount of the release equals or exceeds the substance's reportable quantity (RQ). The RQ of every hazardous substance is found in Table 302.4 of 40 CFR 302.4.

Section 103(f)(2) of CERCLA provides facilities relief from this per-occurrence notification requirement if the hazardous substance release at or above the RQ is continuous and stable in quantity and rate. Under the Continuous Release Reporting Requirements (CRRR), to report such a release as a continuous release you must make an initial telephone call to the NRC, an initial written report to the EPA Region, and, if the source and chemical composition of the continuous release does not change and the level of the continuous release does not significantly increase, a follow-up written report to the EPA Region one year after submission of the initial written report. If the source or chemical composition of the previously reported continuous release changes, notifying the NRC and EPA Region of a change in the source or composition of the release is required. Further, a significant increase in the level of the previously reported continuous release must be reported immediately to the NRC according to section 103(a) of CERCLA. Finally, any change in information submitted in support of a continuous release notification must be reported to the EPA Region.

The reporting of a hazardous substance release that is equal to or above the substance's RQ allows the Federal government to determine whether a Federal response action is required to control or mitigate any potential adverse effects to public health or welfare or the environment. The continuous release of hazardous substance information collected under CERCLA section 103(f)(2) is also available to EPA program offices and other Federal agencies who use the information to evaluate the potential need for additional regulations, new permitting requirements for specific substances or sources, or improved emergency response planning. State and local government authorities and facilities subject to the CRRR use release information for purposes of local emergency response planning. Members of the public, who have access to release information through the Freedom of Information Act, may request release information for purposes of maintaining an awareness of what types of releases are occurring in different localities and

what actions, if any, are being taken to protect public health and welfare and the environment.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 10.5 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: EPA expects a number of different industrial categories to report hazardous substances releases under the provisions of the CRRR. No one industry sector or group of sectors is disproportionately affected by the information collection burden.

Estimated Number of Respondents: 3,587.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 301,508 hours.

Estimated Total Annual Cost: $10,290,207, includes $128,076 annualized capital or O&M costs.

Changes in the Estimates: There is an increase of 17,354 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This increase is primarily from the use of data on the actual number of continuous release reports from several regions and applying a growth rate consistent with prior years reporting.

Dated: February 12, 2008.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E8–3232 Filed 2–20–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8531–3]

Public Water System Supervision Program Variance and Exemption Review for the State of Colorado

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Results of Review.

SUMMARY: The Environmental Protection Agency (EPA) Region 8 has completed its statutory review of variances and exemptions issued by the State of Colorado under the Safe Drinking Water Act (SDWA) Public Water System Supervision (PWSS) program. This review was announced in the **Federal Register** published September 25, 2007, 72 FR 54445, and provided the public with an opportunity to comment. No comments related to Variances and/or Exemptions issued or proposed by the State of Colorado were received.

The Environmental Protection Agency (EPA) Region 8 determined as a result of this review that the State of Colorado did not abuse its discretion on any variance or exemption granted or proposed as of the date of the on site review on September 25, 2007.

FOR FURTHER INFORMATION CONTACT: Jack Theis at 303–312–6347 or e-mail at *Theis.Jack@epa.gov*.

SUPPLEMENTARY INFORMATION: Colorado has an EPA approved program for assuming primary enforcement authority for the PWSS program, pursuant to section 1413 of SDWA, 42 U.S.C. 300g–2 and 40 CFR Part 142.

A. Why do States issue variances and exemptions?

States with primary PWSS enforcement authority are authorized to grant variances and exemptions from National Primary Drinking Water Regulations due to particular situations with specific public water systems providing these variances and exemptions meet the requirements of SDWA, Sections 1415 and 1416, and are protective of public health.

B. Why is a review of the variances and exemption necessary?

Colorado is authorized to grant variances and exemptions to drinking water systems in accordance with the SDWA. The SDWA requires that EPA periodically review State issued variances and exemptions to determine compliance with the Statute. 42 U.S.C. 300g–4(e)(8); 42 U.S.C. 300g–5(d).

Dated: December 19, 2007.

Kerrigan G. Clough,

Deputy Regional Administrator, Region 8.

Editorial Note: This document was received at the Office of the Federal Register on February 15, 2008.

[FR Doc. E8–3236 Filed 2–20–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8531–4]

Public Water System Supervision Program Variance and Exemption Review for the State of Montana

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA), Region 8 will conduct a statutory review of variances and exemptions issued by the State of Montana under the Safe Drinking Water Act (SDWA) Public Water System Supervision (PWSS) program. The SDWA, 42 U.S.C. 300 *et seq.*, requires that EPA periodically review variances and exemptions issued by states with primary enforcement authority to determine compliance with requirements of the statute 42 U.S.C. 300g–4(e)(8); 42 U.S.C. 300g–5(d). In accordance with these provisions in the SDWA, and its regulations, EPA is giving public notice that the EPA, Region 8 will conduct a review of the variances and exemptions issued by the State of Montana to Public Water Systems under its jurisdiction. The review will be conducted during February, 2008.

The public is invited to submit comments on any or all variances and/or exemptions issued by the State of Montana, and on the need for continuing them, by March 15, 2008. Results of this review will be published in the **Federal Register**.

ADDRESSES: Comments on variances and exemptions issued by the State of Montana should be addressed to: Robert E. Roberts, Regional Administrator, c/o Eric Finke, U.S. EPA, Region 8, Montana Office, 10 West 15th Street, Suite 3200, Helena, Montana 59620.

All data and other information with respect to the variances and exemptions issued by the State of Montana are located at the Montana Department of Environmental Quality, Public Water Subdivisions Bureau, Lee Metcalf Building, 1520 East 6th Avenue, Helena, Montana 59620.

FOR FURTHER INFORMATION CONTACT: Eric Finke at 406–457–5024 or *finke.eric@epa.gov.*

SUPPLEMENTARY INFORMATION: Montana has an EPA approved program for primary enforcement authority for the PWSS program, pursuant to section 1413 of the Safe Drinking Water Act (SDWA), 42 U.S.C. 300g–2 and 40 CFR 142.22.

A. Why do states issue variances and exemptions?

States with primary enforcement authority are authorized to grant variances and exemptions from National Primary Drinking Water Regulations to specific public water systems, provided these variances and exemptions meet the requirements of the SDWA, sections 1415 and 1416, and are protective of public health.

B. Why is a review of the variances and exemptions necessary?

Montana is authorized to grant variances and exemptions to drinking water systems in accordance with the SDWA. The SDWA requires that EPA periodically review State issued variances and exemptions to determine compliance with the Statute. 42 U.S.C. 300g–4(e)(8); 42 U.S.C.300g–5(d).

Dated: February 12, 2008.

Judith Wong,

Acting Regional Administrator, Region 8.

[FR Doc. E8–3233 Filed 2–20–08; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

February 5, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501–3520. An agency may not conduct or sponsor a collection of information unless it displays a currently valid 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 April 21, 2008. 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 Nicholas A. Fraser, Office of Management and Budget, (202) 395–5887, or via fax at 202–395–5167 or via internet at *Nicholas_A._Fraser@omb.eop.gov* and to *Judith-B.Herman@fcc.gov*, Federal Communications Commission, or an e-mail to *PRA@fcc.gov*. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called "Currently Under Review", (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, and (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0795.

Title: Associate WTB and PSHSB Call Sign and Antenna Structure Registration Numbers with Licensee's FRN.

Form No.: FCC Form 606.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 429,000 respondents; 429,000 responses.

Estimated Time Per Response: 1 hour.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 429,000 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: Yes.

Nature and Extent of Confidentiality: In general there is no need for confidentiality. On a case-by-case basis, the Commission may be required to withhold from disclosure certain information about the location, character, or ownership of a historic property, including traditional religious sites.

Needs and Uses: The Commission will submit this information collection to the OMB after this 60-day comment period as an extension (no change in reporting and/or third-party disclosure requirements) to obtain the full three-year clearance from them. There is no change in the burden estimates.

Licensees use the FCC Form 606 to associate their FCC Registration Number (FRN) with their Wireless Telecommunications Bureau call signs and antenna structure registration numbers. In addition, those antenna structure tenant licensees subject to the Anti-Drug Abuse Act of 1998 must use FCC Form 606 to register their antenna structures. The form must be submitted before filing any subsequent applications associated with the existing license or antenna structure registration.

The information collected in the FCC Form 606 is used to populate the Universal Licensing System (ULS) for licensees and antenna structure registration owners who interact with ULS. This information is also used to match records in the ULS database to the Revenue Accounting Management Information System (RAMIS) records to validate payment for application and for debt collection purposes.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–3157 Filed 2–20–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested; Correction

AGENCY: Federal Communications Commission.

ACTION: Notice; correction.

SUMMARY: The Federal Communications Commission published a document in the **Federal Register** on February 13, 2008, concerning request for comments on public information collections. The document contained the incorrect FCC number.

FOR FURTHER INFORMATION CONTACT: Cathy Williams, 202–418–2918.

Correction

In the **Federal Register** of February 13, 2008, in FR Doc. E8–2675; on page 8315, in the second column, correct the "Needs and Uses" to read:

Needs and Uses: On February 1, 2008, the Commission released a Report and Order and Further Notice of Proposed Rulemaking, In the Matter of Leased Commercial Access, MB Docket No. 07–42, FCC 07–208. In this Report and Order, we modify the leased access rules. With respect to leased access, we modify the leased access rate formula; adopt customer service obligations that require minimal standards and equal treatment of leased access programmers with other programmers; eliminate the requirement for an independent accountant to review leased access rates; and require annual reporting of leased access statistics. We also adopt expedited time frames for resolution of complaints and improve the discovery process.

The commercial leased access requirements are set forth in Section 612 of the Communications Act of 1934, as amended. The statute and corresponding leased access rules require a cable operator to set aside channel capacity for commercial use by unaffiliated video programmers. The Commission's rules implementing the statute require that cable operators with 36 or more channels calculate rates for leased access channels, maintain and provide on request information pertaining to leased access channels, and provide billing and collection services as required. The Commission may be required to resolve complaints about rates, terms and conditions of leased access. Changes to the rules increased the quantity of information maintained and provided, increase the information needed to calculate rates and require the filing of an annual report with the Commission on the status of leased access channels.

In addition, the Commission is consolidating information collection OMB Control Number 3060–0569 (Commercial leased access dispute resolution) into this collection OMB Control Number 3060–0568.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–3226 Filed 2–20–08; 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.: 011284–065.

Title: Ocean Carrier Equipment Management Association Agreement.

Parties: APL Co. Pte. Ltd.; American President Lines, Ltd.; A.P. Moller-Maersk A/S; CMA CGM, S.A.; Atlantic Container Line; China Shipping Container Lines Co., Ltd.; China Shipping Container Lines (Hong Kong) Co., Ltd.; Companhia Libra de Navegacao; Compania Libra de Navegacion Uruguay S.A.; Compania Sudamericana de Vapores, S.A.; COSCO Container Lines Company Limited; Crowley Maritime Corporation; Evergreen Line Joint Service Agreement; Hamburg-Süd; Hapag-Lloyd USA LLC; Hanjin Shipping Co., Ltd.; Hyundai Merchant Marine Co. Ltd.; Kawasaki Kisen Kaisha, Ltd.; Mitsui O.S.K. Lines Ltd.; Nippon Yusen Kaisha Line; Norasia Container Lines Limited; Orient Overseas Container Line Limited; Yang Ming Marine Transport Corp.; and Zim Integrated Shipping Services, Ltd.

Filing Party: Jeffrey F. Lawrence, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment would add Mediterranean Shipping Company SA as a party to the agreement. The parties request expedited review.

Agreement No.: 012028.

Title: WWL/Hoegh Middle East Space Charter Agreement.

Parties: Hoegh Autoliners AS and Wallenius Wilhelmsen Logistics AS.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW., Suite 900; Washington, DC 20036.

Synopsis: The Agreement would authorize the parties to charter space between one another from the U.S. Atlantic coast to ports in countries bordering the Red Sea and Arabian Gulf.

Agreement No.: 201160–001.

Title: Marine Terminal Lease and Operating Agreement Between Broward County and Mediterranean Shipping Company, S.A.

Parties: Broward County, Florida, and Mediterranean Shipping Company, S.A.

Filing Party: Candace J. McCann; Broward County Board of County Commissioners; Office of the County Attorney; 1850 Eller Drive, Suite 502; Fort Lauderdale, FL 33316.

Synopsis: The agreement provides for revisions to the demised premises section, rental and minimum guaranteed payment terms, and other additional terms and conditions of the agreement.

Agreement No.: 201178.

Title: Los Angeles/Long Beach Port/Terminal Operator Administration and Implementation Agreement.

Parties: The West Coast MTO Agreement; The City of Los Angeles, acting by and through its Board of Harbor Commissioners; and The City of Long Beach, acting by and through its Board of Harbor Commissioners.

Filing Party: David F. Smith, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036; and C. Jonathan Benner, Esq.; Troutman Sanders LLP; 401 9th Street, NW.; Washington, DC 20004.

Synopsis: The Agreement would authorize the parties to discuss and reach agreement on implementation and/or administration of various portions of the Clean Air Action Programs that have been adopted by the Ports' Boards of Harbor Commissioners.

Dated: February 15, 2008.

By order of the Federal Maritime Commission.

Karen V. Gregory,

Assistant Secretary.

[FR Doc. E8–3260 Filed 2–20–08; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the

Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 17, 2008.

A. Federal Reserve Bank of Kansas City (Todd Offenbacker, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Prime Bank Group, Inc., to become a bank holding company by acquiring 100 percent of the voting shares of Prime Bank (in organization), both in Edmond, Oklahoma.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. National Bank & Trust Employee Stock Ownership Plan With 401(k) Provisions; to become a bank holding company by acquiring up to 26 percent of the voting shares of First La Grange Bancshares, Inc., and indirectly acquire voting shares of National Bank & Trust, all of La Grange, Texas.

Board of Governors of the Federal Reserve System, February 15, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–3202 Filed 2–20–08; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Office for Civil Rights: Audio Conference on Proposed Regulations Related to Patient Safety

AGENCY: Agency for Healthcare Research and Quality, HHS; Office for Civil Rights, HHS.

ACTION: Notice of audio conference.

SUMMARY: The U.S. Department of Health and Human Services' Agency for Healthcare Research and Quality Director Dr. Carolyn Clancy and Office for Civil Rights Deputy Director of Health Information Privacy Susan McAndrew will host a joint audio conference February 29, 2008 from 2–3 p.m. (Eastern Standard Time) to discuss the recently published proposed regulation regarding Patient Safety and Quality Improvement and statutory confidentiality protections. The purpose of this audio conference is to facilitate public understanding of the proposed regulation and rulemaking process outlined in the Notice of Proposed Rulemaking published in the **Federal Register** February 12, 2008. To register for the audio conference, log on to *http://www.academyhealth.org/ahrq/psoaudio/*.

DATES: The live audio conference will be Feb. 29 from 2–3 p.m. (Eastern Standard Time).

ADDRESSES: The proposed regulation can be viewed on the Federal eRulemaking Portal at *http://www.regulations.gov/fdmspublic/ContentViewer?objectId=09000064803acce8&disposition=attachment&contentType=html*.

The audio conference is open to everyone; however, discussions during this forum will not be included in official public comments.

Public comment on the proposed regulations will be accepted through April 14, 2008.

Comments can be submitted by any of the following methods: Federal eRulemaking Portal: *http://www.regulations.gov/fdmspublic/component/main?main=SubmitComment&o=09000064803acce8*.

Comments should include the agency name (Agency for Healthcare Research and Quality and/or Office for Civil Rights) and RIN 0919–AA01.

Mail/Hand Delivery/Courier: Center for Quality Improvement and Patient Safety, Attention: Patient Safety Act Notice of Proposed Rulemaking Comments, Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland 20850.

Comments sent by facsimile (FAX) transmission or electronic mail will not be accepted.

Comments received through the eRulemaking Portal can be viewed online at either of the Web sites listed above. All comments received through the eRulemaking Portal, mail, and hand delivery/courier are available for public inspection at the AHRQ Information Resources Center, which is located at 540 Gaither Road, Rockville, Maryland 20850. The Information Resources Center is open from 8:30 a.m. to 5 p.m. Eastern Standard Time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ellen Crown, Agency for Healthcare Research and Quality, 301–427–1258 or *ellen.crown@ahrq.hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the Patient Safety and Quality Improvement Act of 2005 (Patient Safety Act), the Secretary is authorized to list Patient Safety Organizations (PSOs), organizations that will work with providers to collect and analyze patient safety related data. The Statute sets forth and the recently published proposed regulation explains certifications that must be submitted by entities in order to be listed as PSOs. PSOs will provide analysis of data and feedback to providers to assist them in improving patient safety.

The Patient Safety Act protects the confidentiality of data shared by providers prepared by the PSO as well as other related materials, defined in the statute and proposed regulations. This legal protection of information addresses significant barriers that currently exists—the fear of legal liability or sanctions that can result from reporting a patient safety event. Strong confidentiality provisions are key to encouraging voluntary reporting, and facilitating the aggregation of large volumes of data which in turn aids in identifying patterns of patient safety events. Under the Patient Safety Act, the imposition of civil monetary penalties is authorized for breaches of its confidentiality provisions. The confidentiality protections of patient safety information are to be implemented in a way that does not interfere with other health care reporting obligations of providers, e.g., under State or local laws.

Dated: February 13, 2008.

Carolyn M. Clancy,

AHRQ, Director.

[FR Doc. 08–776 Filed 2–20–08; 8:45am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Project:

Title: Exploration of Low-Income Couples' Decision-Making Processes.

OMB No.: New Collection.

Description: The Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is proposing a data collection activity as part of the Exploration of Low-Income Couples' Decision-Making (CDM) Processes study. This project will gather important information that will be useful for improving social services delivery approaches for working with individuals in couple relationships. The proposed collection will consist of two elements: (1) Focus groups with low-income couples; and (2) a telephone survey and observation of low-income couples. These data collection efforts will examine sources of conflict and assess decision-making processes among low-income couples—especially in relation to issues directly addressed by social service programs (e.g., employment, housing).

Respondents: Low-income couples.

ANNUAL BURDEN ESTIMATES

Instrument	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Estimated annual burden hours
Focus Group Discussion	16	1	2	32
Telephone Survey	80	1	.333333	27
Home Visit Setup and Administration of Oral History Interview and Decision Payoff Ratings	80	1	.666666	53
Paper Tower Task	80	1	.5	40
Economic Decision Task—Revealed Differences	80	1	.25	20
Interpersonal Conflict Discussion	80	1	.25	20
Video Recall Task	80	1	.83	66

Estimated Total Annual Burden Hours: 258.

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments 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) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: February 12, 2008.

Brendan C. Kelly,

Reports Clearance Officer.

[FR Doc. 08–777 Filed 2–20–08; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–N–0082]

Animal Drug User Fee Act; Public Meeting; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Food and Drug Administration (FDA, the agency) is publishing proposed recommendations for the reauthorization of the Animal Drug User Fee Act of 2003 (ADUFA) for fiscal years (FY) 2009 to 2013. These proposed recommendations were developed after a public meeting with stakeholders and discussions with regulated industry. ADUFA, enacted November 18, 2003, directs FDA to publish these proposed recommendations in the **Federal Register**; hold a meeting at which the public may present its views on such recommendations; and provide a period of 30 days for the public to provide written comments on such recommendations.

Dates and Time: The public meeting will be held on March 11, 2008, from 1 p.m. to 3:30 p.m.

Location: The public meeting will be held at 7519 Standish Pl., third floor, rm. A, Rockville, MD 20855. There is parking near the building. Photo identification is required to clear building security.

Contact Person: Roxanne Schweitzer, Center for Veterinary Medicine (HFV–10), Food and Drug Administration, 7529 Standish Pl., Rockville, MD 20855, 240–276–9705, FAX: 240–276–9744, e-mail: *Roxanne.Schweitzer@fda.hhs.gov.*

Registration: To ensure there is sufficient room we ask that you pre-register. Furthermore, to assist us in scheduling, we ask that you notify us through the registration process if you wish to make a public comment at the meeting. To register, please send an electronic mail message to *roxanne.schweitzer@fda.hhs.gov* by March 4, 2008. Your e-mail should include the following information: Name, Company, Company Address, Company Telephone Number, and E-mail Address. You will receive a confirmation within 2 business days.

FDA also will accept walk-in registration at the meeting site, but space is limited, and the agency will close registration when maximum seating capacity (approximately 500) is reached. FDA will try to accommodate all persons who wish to make a public comment at the meeting, including those who register at the meeting site, however, the time allotted for public comments may depend on the number of persons who wish to speak.

Additionally, please notify FDA (see *Contact Person*) if you need any special accommodations (such as wheelchair access or a sign language interpreter) at least 7 days in advance.

Comments: To ensure consideration of your comments regarding these proposed recommendations, you should

submit comments by April 14, 2008. Interested persons may submit written or electronic comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*. 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.

Please note that on January 15, 2008, the FDA Web site transitioned to the Federal Dockets Management System (FDMS). FDMS is a Government-wide, electronic docket management system. Electronic submissions will be accepted by FDA through FDMS only.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 4 of ADUFA, enacted in 2003 (Public Law 108–130, November 18, 2003), authorized FDA to collect user fees from regulated industry that were to be dedicated to expediting the review of animal drug applications in accordance with certain performance goals identified in letters dated November 13, 2003, from the Secretary of Health and Human Services to the Chairman and Ranking Minority Member of the Energy and Commerce Committee of the House of Representatives and the Chairman and Ranking Minority Member of the Health, Education, Labor and Pensions Committee of the Senate.

Before ADUFA, FDA's animal drug review process was unpredictable and slow. Since the implementation of ADUFA there has been a significant improvement in FDA funding for the process for review of new animal drug applications (NADA), including significant investments in infrastructure and support. ADUFA has enabled FDA to increase the staff dedicated to the process of reviewing animal drug applications since 2003 by about 30 percent. As a result, the process for review of NADAs has become more predictable and faster.

Under ADUFA, the industry provides user fees that are available to FDA, in addition to appropriated funds, to spend on the animal drug review process. Moreover, FDA authority to collect user fees is "triggered" only when a base amount of appropriated funds, adjusted for inflation, is spent.

As part of ADUFA, FDA established review performance goals that have been phased in over a 5 year period. These performance goals run from FY 2004 through FY 2008 and are intended to achieve progressive, yearly improvements in the time for review of animal drug applications. FDA agreed to review and act on submissions within shorter periods of time each fiscal year. With the fifth and final year of ADUFA ending on September 30, 2008, FDA has agreed to review and act on 90 percent of the following submission types within specified times:

- Animal drug applications and reactivations of such applications within 180 days after submission date.
- Non-manufacturing supplemental animal drug applications (that is, supplemental animal drug applications for which safety or effectiveness data are required) and reactivations of such supplemental applications within 180 days after submission date.
- Manufacturing supplemental animal drug applications and reactivations of such supplemental applications within 120 days after submission date.
- Investigational animal drug study submissions within 180 days after submission date.
- Investigational animal drug submissions consisting of protocols, that FDA and the sponsor consider to be an essential part of making the decision to approve or not approve an animal drug application or supplemental animal drug application, without substantial data, within 60 days after submission date.
- Administrative animal drug applications submitted after all scientific decisions have been made in the investigational animal drug process (that is, prior to submission of the animal drug application) within 60 days after submission date.

We began public consultation on ADUFA reauthorization with a public meeting held on April 24, 2007. The meeting included presentations by FDA and four speakers from the public. FDA presented information on ADUFA's successful performance and financial outcomes. The public participants represented different stakeholder groups, including consumer groups and regulated industry. The stakeholders were asked to respond to the following questions: (1) What is your assessment of the overall performance of the ADUFA program thus far and (2) What suggestions or changes would you make relative to the reauthorization of ADUFA? There was general agreement among the responding stakeholders that ADUFA should be reauthorized. In preparing proposed recommendations for ADUFA reauthorization (ADUFA II), FDA has also conducted technical discussions with regulated industry.

Congress also directed FDA to: (1) Publish in the **Federal Register** the proposed recommendations developed through this process after negotiations with the regulated industry, (2) present the proposed recommendations to the congressional committees specified in the statute, (3) hold a public meeting at which the public can present its views on the proposed recommendations, and (4) provide a period of 30 days for the public to provide written comment on the proposed recommendations.

We have now concluded discussions with industry and other stakeholders regarding reauthorization of ADUFA. The purpose of this document is to publish the recommendations FDA intends to propose to Congress and announce the dates for the upcoming public meeting and written comment period. After the public meeting and the close of the 30-day comment period, FDA plans to undertake a careful review of all public comments on these proposed recommendations.

II. What FDA is Proposing to Recommend for ADUFA II

For ADUFA II, as described in the following paragraphs, FDA plans to carry forward the performance goals from ADUFA and to propose additional goals related to proposed enhancements to the program. Proposed recommendations fall into three categories:

A. Proposals to Ensure Sound Financial Footing for the Animal Drug Review Program

B. Proposals to Enhance the Process for Review of Animal Drug Applications and

C. Improving the Information Technology (IT) Infrastructure for Animal Drug Review

A. Proposed Recommendations to Ensure Sound Financial Footing

Although user fees have provided substantial resources to FDA since the beginning of the program, user fees have not kept up with the increasing costs of the program associated with inflation in pay and benefit costs to the agency, and rent and rent-related costs. FDA has experienced an increase in costs of pay and benefits averaging 5.9 percent per year over the most recent 5 years. Non-salary costs, including the costs of rent and contract support, have also increased at the same rate. FDA is proposing changes to the financial provisions of ADUFA to address these shortcomings and place the program on sound financial footing so FDA can

continue with the program and enhance it.

1. The Proposals Set the Total Fee Revenue Amounts in Section 740(b) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 379j–12(b)) to Assure That the Amounts Grow Sufficiently Each Year to Cover FDA's Anticipated Change in Costs Each Year

Based on an analysis of FDA's recent costs history and anticipated costs over the next 5 years, FDA expects the trend of increasing costs to continue. FDA's proposed recommendation to Congress, after consultation with regulated industry, is that the total fee revenue estimate for each of the 5 fiscal years of ADUFA II be the amounts set out in table 1 of this document.

TABLE 1.— ADUFA II FEE REVENUE TARGETS FOR EACH YEAR BEGINNING FY 2009

Fiscal Year	2009	2010	2011	2012	2013	Total
Total Revenue Target	$15,260,000	$17,280,000	$19,448,000	$21,768,000	$24,244,000	$98,000,000

With this level of proposed funding, FDA can have confidence that it will have a stable review workforce over the 5 years to be covered by ADUFA II. That assurance of a stable animal drug review workforce enables FDA to commit to a continuation of the FY 2008 performance goals, and to some additional performance goals.

2. Proposed Elimination of the Inflation Adjustment Applied to User Fees

Because the proposed total fee revenue amounts already have the costs of inflation built into them, there is no need for the inflation adjustment that was applied to the total revenue amounts that were in ADUFA. Accordingly, FDA proposes to eliminate the inflation adjustment provisions for the fee revenue amounts.

3. Technical Changes to Increase Administrative Efficiency of the User Fee Program

FDA is proposing several technical changes to ADUFA to clarify the original intent of several ADUFA definitions and to remove potential ambiguity. FDA's analysis of the impact of these changes indicates that they would be revenue-neutral and would have a minimal impact on industry fee-payers. These technical proposals include the following:

- Change the date for the calculation of the inflationary adjustment factor so it can be calculated before the President's budget is sent to Congress;
- Amend the definition of "animal drug sponsor" to clarify that it includes a holder of an approved application for an animal drug that is not marketed but the application has not been withdrawn;
- Add the definition of "person" to include affiliates, which continues the current interpretation of the act and parallels recent changes made to Prescription Drug User Fee Act;
- Change the application fee rate for combination applications subject to the criteria of section 512(d)(4) of act (21 U.S.C. 360b(d)(4)) (Animal Drug Availability Act combinations) to one-half the full application fee rate;
- Delay offsets for collections in excess of appropriations in any year to the final year of the ADUFA program and make offsetting reductions only if cumulative fees collected over the first 4 years exceed cumulative appropriations for fees over the same period; and
- Revise the authorization of appropriations in the act to match the total fee revenue amounts being proposed.

4. Triggers

ADUFA has three triggers. One is tied to appropriations for the process for review of new animal drug applications and two are tied to agency appropriations. FDA is proposing to leave the current triggers unchanged through ADUFA II. The three triggers are as follows:

(1) Fees may not be assessed for a FY beginning after FY 2003 unless appropriations for salaries and expenses of FDA for such FY (excluding the amount of fees appropriated for such FY) are equal to or greater than the amount of appropriations for the salaries and expenses of FDA for FY 2003 (excluding the amount of fees appropriated for such FY) multiplied by the adjustment factor applicable to the FY involved.

(2) The fees authorized shall only be collected and available to defray increases in the cost of the resources allocated for the process for the review of animal drug applications (including increases in such costs for an additional number of full-time equivalent positions in the Department of Health and Human Services to be engaged in such process) over such costs, excluding costs paid from fees collected for FY 2003 multiplied by the adjustment factor.

(3) The fees authorized by this section shall be retained in each FY in an amount not to exceed the amount specified in appropriation acts, or otherwise made available for obligations for such FY.

B. Enhancing the Process for Premarket Review

We are proposing changes to the performance goals that ADUFA established to enhance the process for review of animal drug applications. In addition to the performance goals established by ADUFA for the review of administrative animal drug applications submitted after all scientific decisions have been made in the investigational animal drug process (that is, prior to submission of the animal drug application) and the review of manufacturing supplemental animal drug applications and reactivations of such supplemental applications, FDA has agreed to revised performance goals for the following submission types:

(1) The agency will review and act on 90 percent of non-administrative animal drug applications and reactivations of such applications within:

- 180 days after the submission date (Day 180) if the agency determines that the application is complete or incomplete. An application is incomplete if it would require substantial data or information to enable the agency to complete a comprehensive review of the application and reach a decision on the approvability of the application; or
- 220 days after the submission date if the agency determines that the submission of additional non-substantial data or information would likely complete the application and electronically requests an end-review amendment

to the application on or before Day 180, but the sponsor fails to file such amendment on or before Day 210. If a sponsor files an amendment after Day 210, then the amendment is ineligible for consideration as an end-review amendment, the extended performance goal (345 days) will not apply, and a complete action letter will be issued by Day 220 for the original application; or

- 345 days after the submission date if the agency electronically requests an end-review amendment to the application on or before Day 180 and the sponsor files an end-review amendment on or before Day 210.

(2) The agency will review and act on 90 percent of non-manufacturing supplemental animal drug applications (i.e., supplemental animal drug applications for which safety or effectiveness data are required) and reactivations of such supplemental applications within:

- 180 days after the submission date (Day 180) if the agency determines that the application is complete or incomplete. An application is incomplete if it would require substantial data or information to enable the agency to complete a comprehensive review of the application and reach a decision on the approvability of the application; or
- 220 days after the submission date if the agency determines that the submission of additional non-substantial data or information would likely complete the application and electronically requests an end-review amendment to the application on or before Day 180, but the sponsor fails to file such amendment on or before Day 210. If a sponsor files an amendment after Day 210, then the amendment is ineligible for consideration as an end-review amendment, the extended performance goal (345 days) will not apply, and a complete action letter will be issued by Day 220 for the original application; or
- 345 days after the submission date if the agency electronically requests an end-review amendment to the application on or before Day 180 and the sponsor files an end-review amendment on or before Day 210.

(3) The agency will review and act on 90 percent of investigational animal drug study submissions within:

- 180 days after the submission date (Day 180) if the agency determines that the submission is complete or incomplete. A submission is incomplete if it would require substantial data or information to enable the agency to complete a comprehensive review of the study submission and reach a decision on the issue(s) presented in the submission; or
- 220 days after the submission date if the agency determines that the submission of additional non-substantial data or information would likely complete the submission and electronically requests an end-review amendment to the submission on or before Day 180, but the sponsor fails to submit such amendment on or before Day 210. If a sponsor submits an amendment after Day 210, then the amendment is ineligible for consideration as an end-review amendment, the extended performance goal (270 days) will not apply, and a complete action letter will be issued by Day 220 for the original submission; or
- 270 days after the submission date if the agency electronically requests an end-review amendment to the submission on or before Day 180 and the sponsor submits an end-review amendment on or before Day 210.

(4) Review and act on 90 percent of investigational animal drug submissions consisting of protocols without substantial data, that the agency and the sponsor consider to be an essential part of the basis for making the decision to approve or not approve an animal drug application or supplemental animal drug application, within:

- 60 days after the submission date (Day 60) if the agency does not request an end-review amendment to the protocol and the agency determines that the protocol is acceptable, the agency will notify the sponsor of this decision electronically on or before Day 50, followed by a complete action letter; or
- 60 days after the submission date (Day 60) if the agency does not request an end-review amendment to the protocol and the agency determines that a protocol is not acceptable, the agency will notify the sponsor of this decision electronically, providing preliminary broad areas of protocol deficiency, on or before Day 50, with the subsequently issued complete action letter providing the detailed protocol assessment. The sponsor may contact the agency for a brief clarification of these areas of deficiency prior to the issuance of the complete action letter; or
- 75 days after the submission date if the agency electronically requests an end-review amendment to the protocol on or before Day 50, but the sponsor fails to submit such amendment within 10 days of the amendment request date. If a sponsor files an amendment more than 10 days after the amendment request date, then the amendment is ineligible for consideration as an end-review amendment, the extended performance goal (refer to the following paragraph) will not apply, and a complete action letter will be issued by Day 75 for the original submission; or
- The greater of 60 days after the original protocol is received by the agency or 20 days after the amended protocol is received by the agency if the agency electronically requests an end-review amendment on or before Day 50 and the sponsor submits such amendment within 10 days of the date the amendment is requested.

(5) The following are additional efforts related to the performance goals for all submission types being proposed for ADUFA II to enhance the premarket review of animal drug applications:

- The agency and regulated industry agree to participate in 10 public workshops by the end of FY 2013 on mutually agreed-upon topics;
- To improve the timeliness and predictability of foreign preapproval inspections (PAIs), sponsors may voluntarily submit at the beginning of the calendar year, a list of foreign manufacturing facilities that are subjects of animal drug applications, supplemental animal drug applications, or investigational animal drug submissions and may be subject to foreign PAIs for the following fiscal year;
- If such a list is voluntarily submitted the sponsor should submit a notification 30 days prior to submitting an animal drug application, a supplemental animal drug application, or investigational animal drug submission that informs the agency that the application includes a foreign manufacturing facility; (should any changes to the annual list occur after its submission to the agency, the sponsor may provide the updated information to the agency);
- The agency and the regulated industry agree to explore and discuss the applicable use of pharmacokinetic/pharmacodynamic data in the development and evaluation of new animal drugs

submitted for approval;

- The agency and the regulated industry agree to explore opportunities for exchange of information regarding the characteristics of a new animal drug, and to identify safety and effectiveness issues as early as possible in the drug development process; and
- The agency and regulated industry commit to work together to explore shorter timeframes commensurate with the magnitude of submitted pharmacokinetic/pharmacodynamic and other new animal drug characteristic data/information.

C. Improving the Information Technology (IT) Infrastructure for Animal Drug Review

In the recommended IT performance goals for ADUFA II, FDA will develop an electronic submission tool for industry submissions and online review capability within 24 months of appropriated ADUFA funds for FY 2009. The agency will consult with the sponsors in the development of this tool.

III. What Information Should You Know About the Meeting?

A. When and Where Will the Meeting Occur? What Format Will FDA Use?

Through this document, FDA is announcing the convening of a public meeting to hear stakeholder views on the recommendations we propose to provide to Congress on the reauthorization of ADUFA.

FDA will conduct the meeting at 1 p.m. on March 11, 2008, at 7519 Standish Pl., third floor, rm. A, Rockville, MD 20855. In general, the meeting format will include presentations by FDA and an open comment period for the public. FDA will also give organizations and individuals an opportunity to submit written comments to the docket after the meeting.

B. Will Meeting Transcripts Be Available?

FDA will prepare a meeting transcript and make it available on the agency's Web site (*www.fda.gov*) after the meeting. FDA anticipates that transcripts will be available approximately 30 business days after the meeting.The transcript will also be available for public examination at the Division of Dockets Management (HFA–305), 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 14, 2008.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E8–3267 Filed 2–20–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–D–0081 (formerly Docket No. 2006D–0297)]

International Conference on Harmonisation; Guidance on Q4B Evaluation and Recommendation of Pharmacopoeial Texts for Use in the International Conference on Harmonisation Regions; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance entitled "Q4B Evaluation and Recommendation of Pharmacopoeial Texts for Use in the ICH Regions." The guidance was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The guidance describes a process for the evaluation and recommendation by the ICH Q4B Expert Working Group (EWG) of selected pharmacopeial texts to facilitate their recognition by regulatory authorities for use as interchangeable in the ICH regions. Following favorable evaluations, ICH will issue topic-specific annexes with information about these texts and their implementation (the Q4B Outcomes). Implementation of the Q4B annexes is intended to avoid redundant testing by industry in favor of a common testing strategy in each ICH regulatory region.

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or the Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. Send two self-addressed adhesive labels to assist the office in processing your requests. Submit written comments on the guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT:

Regarding the guidance: Robert H. King, Sr., Center for Drug Evaluation and Research (HFD–003), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 21, rm. 3542, Silver Spring, MD 20993–0002, 301–796–1242;or

Christopher Joneckis, Center for Biologics Evaluation and Research (HFM–20), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–435–5681.

Regarding the ICH: Michelle Limoli, Office of International Programs (HFG–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4480.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance entitled "Q4B Evaluation and Recommendation of Pharmacopoeial Texts for Use in the ICH Regions." In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan,

and the United States. The six ICH sponsors are the European Commission, the European Federation of Pharmaceutical Industries Associations, the Japanese Ministry of Health, Labour, and Welfare, the Japanese Pharmaceutical Manufacturers Association, the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA, and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, Health Canada, and the European Free Trade Area.

In the **Federal Register** of August 8, 2006 (71 FR 45059), FDA published a notice announcing the availability of a draft guidance entitled "Q4B Regulatory Acceptance of Analytical Procedures and/or Acceptance Criteria." The notice gave interested persons an opportunity to submit comments by October 10, 2006.

After consideration of the comments received and revisions to the guidance, a final draft guidance entitled "Q4B Evaluation and Recommendation of Pharmacopoeial Texts for Use in the ICH Regions" was submitted to the ICH Steering Committee and endorsed by the three participating regulatory agencies in November 2007.

The guidance provides information on a Q4B process for evaluating harmonization proposals for specific pharmacopeial topics originating from the three-party Pharmacopoeial Discussion Group (PDG) or from individual PDG pharmacopeias. The PDG consists of representatives from the European Directorate for the Quality of Medicines in the Council of Europe; the Japanese Ministry of Health, Labour and Welfare, and the United States Pharmacopeial Convention, Inc. The results of the individual Q4B evaluations will move forward as topic-specific annexes to the core Q4B guidance. Each annex will be issued separately following the ICH step process, providing guidance to assist industry and regulators in the implementation of the specific topic evaluated by the ICH Q4B process. Following the receipt of comments on the draft guidance, the Q4B EWG made no substantive changes to the Q4B process or the use of annexes to convey the results of Q4B evaluations. The title of the guidance, as well as some of the text, was revised to more closely reflect the actual workings and process of the Q4B EWG.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the agency's current thinking on Q4B evaluation and recommendation of pharmacopoeial texts for use in the ICH regions. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket 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.

Please note that on January 15, 2008, the FDA Web site transitioned to the Federal Dockets Management System (FDMS). FDMS is a Government-wide, electronic docket management system. Electronic submissions will be accepted by FDA through FDMS only.

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/ohrms/dockets/default.htm*, *http://www.fda.gov/cder/guidance/index.htm*, or *http://www.fda.gov/cber/publications.htm*.

Dated: February 12, 2008.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E8–3186 Filed 2–20–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–D–0083 (formerly Docket No. 2006D–0296)]

International Conference on Harmonisation; Guidance on Q4B Evaluation and Recommendation of Pharmacopoeial Texts for Use in the ICH Regions; Annex on Residue on Ignition/Sulphated Ash General Chapter; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance entitled "Q4B Evaluation and Recommendation of Pharmacopoeial Texts for Use in the ICH Regions; Annex 1: Residue on Ignition/Sulphated Ash General Chapter." The guidance was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The guidance provides the results of the ICH Q4B evaluation of the Residue on Ignition/Sulphated Ash General Chapter harmonized text from each of the three pharmacopeias (United States, European, and Japanese) represented by the Pharmacopoeial Discussion Group (PDG). The guidance conveys recognition of the three pharmacopeial methods by the three ICH regulatory regions and provides specific information regarding the recognition. The guidance is intended to recognize the interchangeability among these texts from the local regional pharmacopeias, thus avoiding redundant testing in favor of a common testing strategy in each regulatory region. Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of a guidance on the Q4B process entitled "Q4B Evaluation and Recommendation of Pharmacopoeial Texts for Use in the ICH Regions."

DATES: Submit written or electronic comments on agency guidance at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or the Office of Communication, Training and Manufacturers Assistance (HFM–40),

Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. Send two self-addressed adhesive labels to assist the office in processing your requests. Requests and comments should be identified with the docket number found in brackets in the heading of this document. Submit written comments on the guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT:

Regarding the guidance: Robert H. King, Sr., Center for Drug Evaluation and Research (HFD–003), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 21, rm. 3542,Silver Spring, MD 20993–0002, 301–796–1242;or

Christopher Joneckis, Center for Biologics Evaluation and Research (HFM–20), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–435–5681.

Regarding the ICH: Michelle Limoli, Office of International Programs (HFG–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4480.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labour, and Welfare; the Japanese Pharmaceutical Manufacturers Association; the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA; and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, Health Canada, and the European Free Trade Area.

In the **Federal Register** of August 8, 2006 (71 FR 45058), FDA published a notice announcing the availability of a draft guidance entitled "Q4B Regulatory Acceptance of Analytical Procedures and/or Acceptance Criteria; Annex 1: Residue on Ignition/Sulphated Ash General Chapter." The notice gave interested persons an opportunity to submit comments by October 10, 2006.

After consideration of the comments received and revisions to the guidance, a final draft guidance entitled "Q4B Evaluation and Recommendation of Pharmacopoeial Texts for Use in the ICH Regions; Annex 1: Residue on Ignition/Sulphated Ash General Chapter" was submitted to the ICH Steering Committee and endorsed by the three participating regulatory agencies in November 2007.

The guidance provides the specific evaluation outcome from the ICH Q4B process for the Residue on Ignition/Sulphated Ash General Chapter harmonization proposal originating from the three-party PDG. This guidance is in the form of an annex to the core ICH Q4B guidance. When implemented, the annex will provide guidance for industry and regulators on the use of the specific pharmacopeial texts evaluated by the ICH Q4B process. Following receipt of comments on the draft, no substantive changes were made to the annex. The title of the core Q4B guidance was changed to more closely reflect the actual workings and process of the Q4B EWG.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may, at any time, submit to the Division of Dockets Management (see **ADDRESSES**) written comments on the guidance. 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 office above between 9 a.m. and 4 p.m., Monday through Friday.

Please note that on January 15, 2008, the FDA Web site transitioned to the Federal Dockets Management System (FDMS). FDMS is a Government-wide, electronic docket management system. Electronic submissions will be accepted by FDA through FDMS only.

III. Electronic Access

Persons with access to the Internet may obtain the document at*http://www.fda.gov/ohrms/dockets/default.htm*, *http://www.fda.gov/cder/guidance/index.htm*, or *http://www.fda.gov/cber/publications.htm*.

Dated: February 12, 2008.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E8–3187 Filed 2–20–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Process Evaluation of the Global Health Research Initiative Program for New Foreign Investigators (GRIP)

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Fogarty International Center (FIC), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on November 30, 2007, and allowed 60 days for public comment. No public comments were received. The

purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title: Process evaluation of the Global Health Research Initiative Program for New Foreign Investigators (GRIP). *Type of Information Collection Request:* NEW. *Need and Use of Information Collection:* This study will assess the outputs of the Global Health Research Initiative Program for New Foreign Investigators (GRIP) to date, assess the program's alignment with new strategic goals of the FIC, and identify potential directions for program enhancement. The primary objectives of the study are to determine if GRIP awards (1) promote productive re-entry of NIH-trained foreign investigators into their home countries, (2) increase the research capacity of the international scientists and institutions, and (3) stimulate research on a wide variety of high priority health-related issues. The findings will provide valuable information concerning: (1) Specific research advances attributable to GRIP support; (2) specific capacity and career enhancing advances that are attributable to GRIP; (3) policy implications for GRIP at the program level based on survey responses, such as successes and challenges of the program's implementation, the GRIP support mechanism, etc. *Frequency of Response:* Once. *Affected Public:* None. *Type of Respondents:* Foreign researchers. The annual reporting burden is as follows: *Estimated Number of Respondents:* 101; *Estimated Number of Responses Per Respondent:* 1; *Average Burden Hours Per Response:* 0.50; and *Estimated Total Annual Burden Hours Requested:* 50.5. The annualized cost to respondents is estimated at: $656.50. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report. Table 1 and Table 2 respectively present data concerning the burden hours and cost burdens for this data collection.

TABLE 1.—ANNUALIZED ESTIMATE OF HOUR BURDEN

Type of respondents	Number of respondents	Frequency of response	Average time for response (hr)	Total hour burden*
GRIP Awardees	101	1	0.50	50.5
Total	101	1	0.50	50.5

Total Burden = N Respondents x Response Frequency x minutes to complete/60.

TABLE 2.—ANNUALIZED COST TO RESPONDENTS

Type of respondents	Number of respondents	Frequency of response	Approx. hourly wage rate	Total respondent cost*
GRIP Awardees	101	1	$13/hr	$656.50
Total	101	1	13/hr	656.50

Total Respondent Cost = N Respondents x Response Frequency x minutes to complete/60 x hourly rate.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget at *OIRA_submission@omb.eop.gov*, or by fax to 202–395–6974. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Linda Kupfer, Fogarty International Center, National Institutes of Health, 16 Center Drive, Bethesda, MD 20892, or call non-toll-free number 301–496–3288, or email your request, including your address to: *kupferl@mail.nih.gov*.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: February 12, 2008.

Timothy Tosten,

Executive Officer, FIC, National Institutes of Health.

[FR Doc. E8–3166 Filed 2–20–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing

to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Development of Antigenic Chimeric St. Louis Encephalitis Virus/Dengue Virus Type Four Recombinant Viruses (SLEV/DEN4) as Vaccine Candidates for the Prevention of Disease Caused by SLEV

Description of Invention: St. Louis Encephalitis Virus (SLEV) is a mosquito-borne flavivirus that is endemic in the Americas and causes sporadic outbreaks of disease in humans. SLEV is a member of the Japanese encephalitis virus serocomplex and is closely related to West Nile Virus (WNV). St. Louis encephalitis is found throughout North, Central, and South America, and the Caribbean, but is a major public health problem mainly in the United States. Prior to the outbreak of West Nile virus in 1999, St. Louis encephalitis was the most common human disease caused by mosquitoes in the United States. Since 1964, there have been about 4,440 confirmed cases of St. Louis encephalitis, with an average of 130 cases per year. Up to 3,000 cases have been reported during epidemics in some years. Many more infections occur without symptoms and go undiagnosed. At present, a vaccine or FDA-approved antiviral therapy is not available.

The inventors have previously developed a WNV/Dengue4Delta30 antigenic chimeric virus as a live attenuated virus vaccine candidate that contains the WNV premembrane and envelope (prM and E) proteins on a dengue virus type 4 (DEN4) genetic background with a thirty nucleotide deletion (Delta30) in the DEN4 3'-UTR. Using a similar strategy, the inventors have generated an antigenic chimeric virus, SLE/DEN4Delta30. Preclinical testing results indicate that chimerization of SLE with DEN4Delta30 decreased neuroinvasiveness in mice, did not affect neurovirulence in mice, and appeared to overattenuate the virus for non-human primates. Modifications of the SLE/DEN4Delta30 vaccine candidate are underway to improve its immunogenicity.

This application claims live attenuated chimeric SLE/DEN4Delta30 vaccine compositions and bivalent WNV/SLE/DEN4Delta30 vaccine compositions. Also claimed are methods of treating or preventing SLEV infection in a mammalian host, methods of producing a subunit vaccine composition, isolated polynucleotides comprising a nucleotide sequence encoding a SLEV immunogen, methods for detecting SLEV infection in a biological sample and infectious chimeric SLEV.

Application: Immunization against SLEV or SLEV and WNV.

Development Status: Live attenuated vaccine candidates are currently being developed and preclinical studies in mice and monkeys are in progress. Suitable vaccine candidates will then be evaluated in clinical studies.

Inventors: Stephen S. Whitehead, Joseph Blaney, Alexander Pletnev, Brian R. Murphy (NIAID).

Patent Status: U.S. Provisional Application No. 60/934,730 filed 14 Jun 2007 (HHS Reference No. E–240–2007/0–US–01).

Licensing Status: Available for exclusive or non-exclusive licensing.

Collaborative Research Opportunity: The NIAID Laboratory of Infectious Diseases is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize live attenuated virus vaccine candidates for St. Louis encephalitis virus. Please contact Dr. Whitehead at 301–496–7692 for more information.

Methods of Glycosylation and Bioconjugation

Description of Technology: Eukaryotic cells express several classes of oligosaccharides attached to proteins or lipids. Animal glycans can be N-linked via beta-GlcNAc to Asn (N-glycans), O-linked via -GalNAc to Ser/Thr (O-glycans), or can connect the carboxyl end of a protein to a phosphatidylinositol unit (GPI-anchors) via a common core glycan structure. Beta (1,4)-galactosyltransferase I catalyzes the transfer of galactose from the donor, UDP-galactose, to an acceptor, N-acetylglucosamine, to form a galactose-beta (1,4)-N-acetylglucosamine bond, and allows galactose to be linked to an N-acetylglucosamine that may itself be linked to a variety of other molecules. Examples of these molecules include other sugars and proteins. The reaction can be used to make many types of molecules having great biological significance. For example, galactose-beta (1,4)-N-acetylglucosamine linkages are important for many recognition events that control how cells interact with each other in the body, and how cells interact with pathogens. In addition, numerous other linkages of this type are also very important for cellular recognition and binding events as well as cellular interactions with pathogens, such as viruses. Therefore, methods to synthesize these types of bonds have many applications in research and medicine to develop pharmaceutical agents and improved vaccines that can be used to treat disease.

The invention provides *in vitro* folding method for a polypeptidyl-alpha-N-acetylgalactosaminyltransferase (pp-GalNAc-T) that transfers GalNAc to Ser/Thr residue on a protein. The application claims that this *in vitro*-folded recombinant ppGalNAc-T enzyme transfers modified sugar with a chemical handle to a specific site in the designed C-terminal polypeptide tag fused to a protein. The invention provides methods for engineering a glycoprotein from a biological substrate, and methods for glycosylating a biological substrate for use in glycoconjugation. Also included in the invention are diagnostic and therapeutic uses.

Application: Enzymes and methods are provided that can be used to promote the chemical linkage of biologically important molecules that have previously been difficult to link.

Developmental Status: Enzymes have been synthesized and characterization studies have been performed.

Inventors: Pradman Qasba and Boopathy Ramakrishnan (NCI/SAIC).

Patent Status: U.S. Provisional Application No. 60/930,294 filed 14 May 2007 (HHS Reference No. E–204–2007/0–US–01).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Peter A. Soukas, J.D.; 301–435–4646; *soukasp@mail.nih.gov*.

Collaborative Research Opportunity: The National Cancer Institute is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this technology. Please contact John D. Hewes, Ph.D. at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Chlamydia Vaccine

Description of Invention: Chlamydia trachomatis is an obligate intracellular bacterial pathogen that colonizes and infects oculogenital mucosal surfaces. The organism exists as multiple serovariants that infect millions of people worldwide. Ocular infections cause trachoma, a chronic follicular conjunctivitis that results in scarring and blindness. The World Health Organization estimates that 300–500 million people are afflicted by

trachoma, making it the most prevalent form of infectious preventable blindness. Urogenital infections are the leading cause of bacterial sexually transmitted disease in both industrialized and developing nations. Moreover, sexually transmitted diseases are risk factors for infertility, the transmission of HIV, and human papilloma virus-induced cervical neoplasia. Control of *C. trachomatis* infections is an important public health goal. Unexpectedly, however, aggressive infection control measures based on early detection and antibiotic treatment have resulted in an increase in infection rates, most likely by interfering with natural immunity, a concept suggested by studies performed in experimental infection models. Effective management of chlamydial disease will likely require the development of an efficacious vaccine.

This technology claims vaccine compositions that comprise an immunologically effective amount of PmpD protein from *C. trachomatis*. Also claimed in the application are methods of immunizing individuals against *C. trachomatis*. PmpD is an antigenically stable pan-neutralizing target that, in theory, would provide protection against all human strains, thus allowing the development of a univalent vaccine that is efficacious against both blinding trachoma and sexually transmitted disease.

Application: Prophylactics against *C. trachomatis*.

Developmental Status: Preclinical studies have been performed.

Inventors: Harlan Caldwell and Deborah Crane (NIAID).

Publication: DD Crane *et al.* Chlamydia trachomatis polymorphic membrane protein D is a species-common pan-neutralizing antigen. Proc Natl Acad Sci USA. 2006 Feb 7;103(6):1894–1899.

Patent Status: PCT Patent Application No. PCT/US2007/001213 filed 16 Jan 2007, which published as WO 2007/082105 on 19 Jul 2007 (HHS Reference No. E–031–2006/0–PCT–02).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Peter A. Soukas, J.D.; 301/435–4646; *soukasp@mail.nih.gov*.

Collaborative Research Opportunity: The NIAID Laboratory of Intracellular Parasites is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize PmpD vaccine development. Please contact Harlan D. Caldwell, at *hcaldwell@niaid.nih.gov* or 406–363–9333 for more information.

Dated: February 11, 2008.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E8–3164 Filed 2–20–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; 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 Dental and Craniofacial Research Special Emphasis Panel.

Date: March 19, 2008.

Time: 2 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Rebecca Wagenaar Miller, PhD., Scientific Review Officer, Scientific Review Branch, National Inst of Dental & Craniofacial Research, National Institutes of Health, 6701 Democracy, Rm 666, Bethesda, MD 20892, 301–594–0652, *rwagenaa@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: February 13, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–771 Filed 2–20–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; 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 Dental and Craniofacial Research Special Emphasis Panel; Review RFA DE08–008, Centers for Research to Reduce Disparities in Oral Health.

Date: March 5–6, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Plaza, 10 Thomas Circle, NW., Washington, DC 20005.

Contact Person: Mario Rinaudo, MD, Scientific Review Officer, Scientific Review Branch, National Inst of Dental & Craniofacial Research, National Institutes of Health, 6701 Democracy Blvd (DEM 1), RM 670 MSC4878, Bethesda, MD 20892, 301–594–2904) *mrinaudo@nidcr.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.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

February 13, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–772 Filed 2–20–08: 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; Regulation of Adaptive Immunity by the Innate Immune System.

Date: March 13, 2008.

Time: 1:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, MSC 3136, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Mercy R. Prabhudas, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–451–2615, *mp457n@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: February 13, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–773 Filed 2–20–08; 8:45 am]

BILLING CODE: 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; 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 Aging Special Emphasis Panel; SWAN.

Date: March 4, 2008.

Time: 2 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20814 (Telephone Conference Call).

Contact Person: Alicja L. Markowska, PhD, DSC, National Institute on Aging, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–496–9666, *markowsa@nia.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.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: February 13, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–774 Filed 2–20–08: 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of an Exclusive License: Development and Commercialization of Therapeutic Products for Breast Cancer

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR Part 404.7(a)(1)(i), announces that the Department of Health and Human Services is contemplating the grant of an exclusive license to practice the inventions embodied in U.S. Patent Application No. 09/693,600 filed October 20, 2000 entitled "Method and Composition for Enhancing Immune Response" [E–037–2001/1–US–01]; Japanese Patent Application No. 2002–555834 filed October 22, 2001 entitled "Method and Composition for Enhancing Immune Response" [E–037–2001/1–JP–03]; and European Patent Application No. 01989341.1 filed October 22, 2001 entitled "Method and Composition for Enhancing Immune Response" [E–037–2001/1–EP–04]; to ODC Therapy, Inc.

The prospective exclusive license territory may be worldwide and the field of use may be limited to therapeutic applications for breast cancer patients expressing high levels of serum or plasma IgE.

DATES: Only written comments and/or license applications which are received by the National Institutes of Health on or before April 21, 2008 will be considered.

ADDRESSES: Requests for copies of the patent and/or patent applications, inquiries, comments and other materials relating to the contemplated exclusive license should be directed to: Mojdeh Bahar, J.D., M.A., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD. 20852–3804. Telephone: (301) 435–2950; Facsimile: (301) 402–0220; E-mail: *baharm@od.nih.gov*.

SUPPLEMENTARY INFORMATION: The invention relates to a method of inhibiting tumor growth which comprises the administration of an IL–13 inhibitor. Additionally, the invention relates to a method and composition for enhancing an immune response in a subject by administering to a subject an inhibitor of IL–13 or an inhibitor of an NK–T cell. The method can be used to prevent growth of a tumor in a subject, *e.g.*, to inhibit tumor recurrence or metastasis. The method can also be used to enhance a response to a vaccine in a subject. IL–13 is an interleukin which has potent immunomodulatory effects. It is primarily secreted by TH2 lymphocytes. This invention relates to the discovery of a role for IL–13 in the down-regulation of tumor immunosurveillance. Using a mouse model in which tumors show a growth-regression-recurrence pattern, the mechanisms for down-regulation of cytotoxic T lymphocyte-mediated tumor immunosurveillance was investigated. It was discovered that interleukin 4 receptor (IL–4R) knockout mice, and downstream signal transducer and activator of transcription 6 (STAT6) knockout mice, but not IL–4 knockout mice, resisted tumor recurrence. Thus, IL–13, the only other cytokine that uses the IL–4R–STAT6 pathway, was discovered to have a role in the down-regulation of tumor immunosurveillance.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless within sixty (60) days from the date of this published notice, the NIH receives written evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: February 11, 2008.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E8–3165 Filed 2–20–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Regulatory Approved Clinical Diagnostics for Anti-HPV16 L1 Serum Antibody Detection in HPV Vaccine Recipients

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive worldwide license to practice the invention embodied in HHS Ref. No. E–253–1993/0 and certain foreign rights under HHS Ref. No. E–166–1992 including U.S. Patent 5,437,951, U.S. Patent 5,985,610, U.S. Patent 5,871,998, U.S. Patent 5,716,620, U.S. Patent 5,744,142, U.S. Patent 5,756,284, U.S. Patent 5,709,996, U.S. Patent Application 09/316,487, U.S. Patent Application 10/371,846, International Patent Application PCT/US93/08342, European Patent Application 93921353.4, European Patent Application 040104531.1, European Patent Application 040783235, Australian Patent 683220, Australian Patent Application 2004203609, Canadian Patent No. 2,143,845, Japanese Patent Applications 1994–507481, Japanese Patent Applications 2001–101791 and continuation and divisional patents and patent applications thereof, entitled "Self-Assembling Recombinant Papillomavirus HPV16 Capsid Proteins," to Biotrin International, Ltd., a limited liability company formed under the laws of the European Union and the Republic of Ireland. The United States of America is the assignee of the patent rights of the above inventions.

The contemplated exclusive license may be granted in the field of regulatory approved clinical diagnostics for serum anti-HPV16 L1 antibody detection in HPV vaccine recipients.

DATE: Only written comments and/or applications for a license received by the NIH Office of Technology Transfer on or before April 21, 2008 will be considered.

ADDRESSES: Requests for a copy of the patent applications, inquiries, comments and other materials relating to the contemplated license should be directed to: Michael A. Shmilovich, Esq., Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 435–5019; Facsimile: (301) 402–0220; E-mail: *shmilovm@mail.nih.gov.* A signed confidentiality nondisclosure agreement may be required to receive copies of the patent applications.

SUPPLEMENTARY INFORMATION: The patent applications intended for licensure disclose and/or cover the following:

E–253–1993 and E–166–1992, "Self-Assembling Recombinant Papillomavirus Capsid Proteins of HPV16," Lowy et al.

Recombinant human papillomavirus 16 capsid proteins that are capable of self-assembly into capsomer structures and viral capsids that comprise conformational antigenic epitopes. The capsomer structures and viral capsids, consisting of the capsid proteins that are expression products of a bovine, monkey or human papillomavirus L1 conformational coding sequence proteins, can be prepared for use in ELISA or cell-based immunoassays for detecting the level of serum antibody in recipients of a vaccine against HPV16. The self-assembling capsid proteins can also be used as elements of diagnostic immunoassay procedures for papillomavirus infection.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty (60) days from the date of this published notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: February 14, 2008.

David Sadowski,

Deputy Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E8–3162 Filed 2–20–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–MB–2008–N0031]

Wildlife and Sport Fish Restoration Program

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of priority list.

SUMMARY: We, the U.S. Fish and Wildlife Service (FWS), announce the FY 2008 priority list of wildlife and sport fish conservation projects from the Association of Fish and Wildlife Agencies (AFWA). As required by the Wildlife and Sport Fish Restoration Programs Improvement Act of 2000, AFWA submits a list of projects to us each year to consider for funding under the Multistate Conservation Grant program. We then review and award grants from this list.

ADDRESSES: John C. Stremple, Multistate Conservation Grants Program Coordinator, Division of Federal Assistance, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Mail Stop MBSP–4020, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: John C. Stremple, (703) 358–2156 (phone) or *John_Stremple@fws.gov* (e-mail).

SUPPLEMENTARY INFORMATION: The Wildlife and Sport Fish Restoration Programs Improvement Act of 2000 (Improvement Act, Pub. L. 106–408) amended the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669 *et seq.*) and the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777 *et seq.*) and established the Multistate Conservation Grant Program. The Improvement Act authorizes us to award grants of up to $3 million annually from funds available under each of the Restoration Acts, for a total of up to $6 million annually. We may award grants from a list of priority projects recommended to us by AFWA. The FWS Director, exercising the

authority of the Secretary of the Interior, need not fund all projects on the list, but all projects funded must be on the list.

Grantees under this program may use funds for sport fisheries and wildlife management and research projects, boating access development, hunter safety and education, aquatic education, fish and wildlife habitat improvements, and other purposes consistent with the enabling legislation.

To be eligible for funding, a project must benefit fish and/or wildlife conservation in at least 26 States, or in a majority of the States in any one FWS Region, or it must benefit a regional association of State fish and wildlife agencies. We may award grants to a State, a group of States, or one or more nongovernmental organizations. For the purpose of carrying out the National Survey of Fishing, Hunting and Wildlife-Associated Recreation, we may award grants to the FWS, if requested by AFWA, or to a State or a group of States. Also, AFWA requires all project proposals to address its National Conservation Needs, which are announced annually by AFWA at the same time as its request for proposals. Further, applicants must provide certification that no activities conducted under a Multistate Conservation grant will promote or encourage opposition to regulated hunting or trapping of wildlife or to regulated angling or taking of fish.

Eligible project proposals are reviewed and ranked by AFWA Committees and interested nongovernmental organizations that represent conservation organizations, sportsmen's organizations, and industries that support or promote fishing, hunting, trapping, recreational shooting, bowhunting, or archery. AFWA's Committee on National Grants recommends a final list of priority projects to the directors of State fish and wildlife agencies for their approval by majority vote. By statute, AFWA then must transmit the final approved list to the FWS for funding under the Multistate Conservation Grant program by October 1.

This year, we received a list of nine recommended projects. We recommend them for funding in 2008, contingent on the Multistate Conservation Grant Program receiving additional funds as specified in the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 (Pub. L. 109–059) passed in August 2005. AFWA's recommended list follows:

Dated: January 29, 2008.

H. Dale Hall,

Director, U.S. Fish and Wildlife Service.

BILLING CODE 4310–55–P

MSCGP 2008 Cycle Selected Projects						2008			2009			2010			
ID	Project Title	Submitter	Contact	Contact E-mail	WR/SFR	WR	SFR	Annual Subtotal	WR	SFR	Annual Subtotal	WR	SFR	Annual Subtotal	Total Grant Request
08-020	Management Assistance Team	AFWA	Jacob Fabisch	jacobf@matteam.org	50-50	250,272	250,272	500,544	263,790	263,790	527,580	271,298	271,297	542,595	1,570,720
08-035	National Fish Habitat Action Plan Implementation: meeting the goals and objectives for 2010	AFWA	Ron Regan	rregan@fishwildlife.org	SFR		82,500	82,500		82,500	82,500		82,500	82,500	247,500
08-027	Designing Sustainable Landscapes for Bird Populations in the Eastern United States	NCSU	Damian Shea	d_shea@ncsu.edu	WR	119,741		119,741	218,673		218,673	183,798		183,798	522,412
08-008	Issues Related to Hunting Access in the United States	NSSF	Melissa Schilling	mschilling@nssf.org	WR	190,101		190,101	241,921		241,921	n/a	n/a	n/a	432,023
08-021	Human dimensions of wildlife health management: insights to support the National Fish and Wildlife Health Initiative	MSU	Shawn Riley	rileysh2@msu.edu	50-50	26,105	26,105	52,211	90,755	90,755	181,510	32,771	32,771	65,542	299,263
08-037	Toward a Comprehensive Understanding of Angler Access	ASA/RM	Gordon Robertson	Grobertson@asafishing.org	SFR		125,570	125,570		121,522	121,522	n/a	n/a	n/a	247,092
08-013	Establishment and Support of the Southeastern Instream Flow Network	SEAFWA	Tim Churchill	Tim.Churchill@state.tn.us	SFR		160,500	160,500		142,500	142,500		142,500	142,500	445,500
08-006	Atlantic Coastal Fish Habitat Partnership	ASMFC	Megan Caldwell	mcaldwell@asmfc.org	SFR		264,960	264,960		256,560	256,560	n/a	n/a	n/a	521,520
08-014	Implementing Bird Action Plans for Shrubland Dependents in the Appalachian Mountains Bird Conservation Region	WMI	Scot Williamson	wmisw@together.net	WR	128,142		128,142	128,142		128,142	128,142		128,142	384,426
						714,381	659,635	1,624,269	943,481	957,627	1,901,108	160,913	175,271	519,982	4,670,456
						2008 WR	2008 SFR	2008 Total	2009 WR	2009 SFR	2009 Total	2010 WR	2010 SFR	2010 Total	Grand Total

[FR Doc. 08–743 Filed 2–20–08; 8:45am]
BILLING CODE 4310–55–C

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–100–07–1610–DP]

Supplement to Notice of Availability (NOA) of the Draft Resource Management Plan and Draft Environmental Impact Statement for the Pinedale Field Office To List Proposed Areas of Critical Environmental Concern and Specific Associated Resource Use Limitations for Public Lands in Sublette and Lincoln Counties, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: A notice of availability for the Draft Resource Management Plan (RMP) and Environmental Impact Statement (EIS) for the Pinedale Field Office planning area in Sublette and Lincoln Counties, Wyoming was published in the **Federal Register**, volume 72, number 32, on February 16, 2007. This supplements that Notice with information on existing and potential Areas of Critical Environmental Concern (ACECs) considered within the Draft RMP and EIS and also provides a 60-day comment period on the proposed ACECs as required by 43 CFR 1610.7–2.

DATES: The comment period will commence with the publication of this notice in the **Federal Register** and end 60 days after its publication.

ADDRESSES: Comments on ACECs and resource use limitations (found on pages 2–106–2–110 and 2–153–2–155) must be received within 60-days of the date of publication of this notice. Written comments must be submitted as follows:

1. Comments may be provided via the Pinedale RMP Revision Web site at: *http://www.blm.gov/rmp/wy/pinedale.* The Web site is designed to allow commenter to submit comments electronically by resource subject directly onto a comment form posted on the Web site. Comments may be uploaded in an electronic file to the above Web site. Whenever possible, please include reference to either the page or section in the Draft RMP/EIS to which the ACEC-related comment applies. To facilitate analysis of comments and information submitted, the BLM encourages commenters to submit comments in an electronic format though the Web site.

2. Written comments may be mailed or delivered to the BLM at: Pinedale RMP EIS, BLM Pinedale Field Office, 1625 W. Pine St., P.O. Box 768, Pinedale, Wyoming 82941. All postal mail must be addressed to the post office box.

FOR FURTHER INFORMATION CONTACT: Kellie Roadifer, Pinedale RMP Team Leader, BLM Pinedale Field Office, 1625 W. Pine Street, Pinedale, Wyoming 82941; or by telephone at 307–367–5309.

SUPPLEMENTARY INFORMATION: The Draft RMP/EIS addresses four alternatives and provides proposed management decisions and impact analysis of the alternatives. The number and acreages of ACECs that would be designated vary by alternative. The four alternatives include:

1. *Alternative 1 (No Action Alternative):* Continues the existing management strategy;

2. *Alternative 2:* Maximizes the production of resource commodities while providing an adequate level of environmental protection for wildlife habitat and other resource values;

3. *Alternative 3:* Provides a high level of environmental protection for wildlife habitat and other resource values while allowing the production of resource commodities; and

4. *Alternative 4 (BLM Preferred Alternative):* Optimizes the mix of resource outputs, including production of resource commodities and wildlife habitat, while providing an appropriate level of environmental protection for all resources.

There are two ACECs in the existing Pinedale Field Office land use plan: Rock Creek ACEC (5,300 acres) and Beaver Creek ACEC (3,590 acres). There are six potential new ACECs proposed in the Draft RMP/EIS. The ACECs are:

- *Trapper's Point ACEC* (550 acres [Alternative 2], 4,000 acres [Alternative 4], or 9,540 acres [Alternative 3]): Values of concern are big game migration corridors, cultural and historic properties, and livestock trailing. Within this ACEC, fence construction and surface disturbing activities would be prohibited with the exception of activities designed to increase big game migration viability. The ACEC would be unavailable for oil and gas leasing. Off-road vehicle use would be restricted to designated roads and trails and subject to a seasonal closure from November 15 through April 30 annually.
- *New Fork Potholes ACEC* (1,800 acres [Alternatives 3 and 4]): Values of concern are waterfowl, trumpeter swan, and riparian habitats. With the exception of those that would benefit wildlife habitat, surface disturbing activities would be prohibited. The ACEC would be unavailable for oil and gas leasing. Off-road vehicle use would be restricted to designated roads and trails.
- *Upper Green River ACEC* (12,270 acres [Alternative 3]): Values of concern are big game migration routes and migration bottlenecks, and high scenic and recreational values. The ACEC would be unavailable for oil and gas leasing. Off-road vehicle use would be restricted to designated roads and trails, and no net increase in miles of roads would be allowed.
- *White-Tailed Prairie Dog (WTPD) ACEC* (no acreage estimate available, [Alternative 3]): The WTPD ACEC would not have a specific area but would involve a number of townships where WTPD habitat is found in future surveys. The value of concern is habitat for the WTPD. Surveys for WTPD presence would be required prior to authorizing any activities. Anti-raptor perching devices would be required on any above-ground facilities located within ¼ mile of WTPD towns greater than 12.5 acres in size. Surface-disturbing activities would be prohibited in WTPD towns greater than 12.5 acres in size. Off-road vehicle use would be limited to designated roads and trails. Poisoning of WTPD would be prohibited except in cases of health and safety emergencies.
- *Ross Butte ACEC* (35,670 acres [Alternative 3]): Values of concern are significant cultural resources, archeological landscapes and Native American sacred sites, a unique community of Wyoming sensitive plant species, high-quality paleontological resources, open space and dispersed recreation opportunities, and unique geology and unstable soils. The ACEC would be unavailable for oil and gas leasing and closed to the placement of new communication sites. Off-road vehicle use would be limited to designated roads and trails. Surface occupancy and disturbance would be prohibited on erosive soils, sensitive plant species habitats, and on slopes greater than 10 percent.
- *CCC Ponds ACEC* (5,530 acres [Alternative 3]): Values of concern are a wildlife migration bottleneck on a well-defined mule deer migration route and recreational values including a developed, nonmotorized trail system, fishing ponds, and interpretive facilities. The ACEC would be unavailable for oil and gas leasing and would be closed to mineral location and land disposal. Off-highway vehicle use

would be limited to designated roads and trails.

Alternative 1 proposes to maintain the status of the two existing ACECs identified in the 1988 Pinedale RMP. Alternative 2 proposes to eliminate the two existing ACECs, and establish a new ACEC at Trapper's Point (550 acres). Alternative 3 proposes to maintain the existing Rock Creek and Beaver Creek ACECs, and establish all of the new ACECs listed above (6).

As a result of public scoping and the alternative development process, Alternative 4 (Preferred Alternative) proposes to maintain the status of the existing Beaver Creek ACEC, maintain but reduce slightly in size the existing Rock Creek ACEC, and establish two new ACECs at Trapper's Point (4,000 acres) and New Fork Potholes.

Please note that public comments and information submitted including names, street addresses, and e-mail addresses of respondents will be available for public review and disclosure at the above address during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except holidays.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Copies of the Draft RMP/EIS were sent to affected Federal, State, and local government agencies and interested parties when the document first became available. Additional copies have been supplied to interested parties on request. There are a limited number of hard copies available upon request. The document was posted electronically, and is still available for public review on the following Web site: *http://www.blm.gov/rmp/wy/pinedale/*. Copies of the Draft RMP EIS are also available for public review at the following locations:

- Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82003.
- Bureau of Land Management, Pinedale Field Office, 1625 W. Pine Street, Pinedale, Wyoming 82941.

Robert A. Bennett,

State Director.

[FR Doc. E8–3251 Filed 2–20–08; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf (OCS) Policy Committee; Notice and Agenda for Meeting

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The OCS Policy Committee will meet at the Washington Dulles Crowne Plaza Hotel in Herndon, Virginia.

DATES: Wednesday, March 5, 2008, 8:30 a.m. to 5:30 p.m. and Thursday, March 6, 2008, from 8:30 a.m. to 12:30 p.m.

ADDRESSES: The Washington Dulles Crowne Plaza Hotel, 2200 Centreville Road, telephone (703) 471–6700.

FOR FURTHER INFORMATION CONTACT: Ms. Jeryne Bryant at Minerals Management Service, 381 Elden Street, Mail Stop 4001, Herndon, Virginia 20170–4187. She can be reached by telephone at (703) 787–1211 or by electronic mail at *jeryne.bryant@mms.gov*.

SUPPLEMENTARY INFORMATION: The OCS Policy Committee represents the collective viewpoint of coastal states, local government, environmental community, industry and other parties involved with the OCS Program. It provides policy advice to the Secretary of the Interior through the Director of the MMS on all aspects of leasing, exploration, development, and protection of OCS resources.

The agenda for Wednesday, March 5 will cover the following principal subjects:

Status of the 5-Year Outer Continental Shelf Oil and Gas Leasing Program and Results to Date. This presentation will provide an update on the 2007–2012 Leasing Program and lease sales results in the Gulf of Mexico and Alaska. The OCS Policy Committee's 5-Year OCS Oil and Gas Leasing Program Subcommittee will also report on its activities and future plans.

A State's Perspective on Alternative Energy. This presentation will provide an opportunity for a non-OCSPC member state to share its alternative energy experience and future plans.

Status of OCS Alternative Energy Program. This presentation will provide an update on the MMS's OCS Alternative Energy Program that has been authorized to manage access and balance competing uses of the OCS while ensuring appropriate environmental safeguards. The OCS Policy Committee's OCS Alternative Energy Subcommittee will also report on its activities and future plans.

State Members' Round Table Discussion of Offshore Energy Issues. State representatives to the OCS Policy Committee will discuss offshore energy development (conventional and alternative) issues from the perspective of their respective states. This session will provide Committee members, MMS representatives, and other participants with a better and more comprehensive understanding of the various issues as perceived by the states and provide an update on their activities.

Importance of OCS to Nation's Future Energy Security. This presentation will examine the contributions the OCS can make towards the production of energy.

Legislative Update. This presentation will address legislative activity pertinent to the OCS program.

Committee Forum. Time has been set aside for the Committee members to have an open discussion on topics of interest in their respective fields.

The agenda for Thursday, March 6 will cover the following principal subjects:

MMS Regional Issues. The Regional Directors will highlight activities off the California and Alaska coasts and the Gulf of Mexico.

Status of Marine Minerals Program. This presentation will provide an update on the MMS's Marine Minerals Program. The OCS Policy Committee's Hard Minerals Subcommittee will also report on its activities and future plans.

Ultra Deepwater—Advances in Drilling and Development. This presentation will provide an update on the current state of technology.

Gulf of Mexico Security Act of 2006 (GOMESA). This presentation will provide an update on the MMS's responsibilities under GOMESA and highlight issues related to its revenue sharing provision.

OCS Scientific Committee Update. This presentation will address current activities of the OCS Scientific Committee and its subcommittees.

The meeting is open to the public. Approximately 100 visitors can be accommodated on a first-come-first-served basis.

Upon request, interested parties may make oral or written presentations to the OCS Policy Committee. Such requests should be made no later than February 29, 2008, to Jeryne Bryant. Requests to make oral statements should be accompanied by a summary of the statement to be made. Please see **FOR FURTHER INFORMATION CONTACT** section for address and telephone number.

Minutes of the OCS Policy Committee meeting will be available for public inspection and copying at the MMS in Herndon, Virginia.

Authority: Federal Advisory Committee Act, Pub. L. 92–463, 5 U.S.C. Appendix 1, and the Office of Management and Budget's Circular No. A–63, Revised.

Dated: February 1, 2008.

Chris C. Oynes,

Associate Director for Offshore Minerals Management.

[FR Doc. E8–3288 Filed 2–20–08; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–603]

In the Matter of: Certain DVD Players and Recorders and Certain Products Containing Same; Notice of Commission Issuance of a Limited Exclusion Order Against the Infringing Products of Respondents Found In Default; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has issued a limited exclusion order against the infringing products of Dongguan GVG Digital Products Ltd. and GVG Digital Technology Holdings Ltd. (collectively, the "GVG respondents"), who were previously found in default, and has terminated the above-captioned investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 ("section 337").

FOR FURTHER INFORMATION CONTACT: Paul M. Bartkowski, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–5432. Copies of non-confidential documents filed in connection with this investigation are or will be 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., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: This investigation was instituted on May 8, 2007, based on a complaint filed by Toshiba Corporation of Tokyo, Japan and Toshiba America Consumer Products, L.L.C., of Wayne, New Jersey (collectively, "Toshiba"). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain DVD players and recorders and certain products containing the same by reason of infringement of certain claims of U.S. Patent Nos.: 5,587,991; 5,870,523; and 5,956,306. The complaint named over a dozen respondents, including the GVG respondents.

On June 25, 2007, Toshiba filed a motion for an order to show cause and for subsequent default judgment against the GVG respondents. On July 10, 2007, the ALJ issued an order requiring the GVG respondents to show cause by July 24, 2007, why they should not be found in default. No response to the show-cause order was received from either of the GVG respondents. Subsequently, the GVG respondents were found in default. All other respondents have been terminated from this investigation. Accordingly, the Commission requested briefing from interested parties and the public on remedy, the public interest, and bonding.

The Commission investigative attorney and Toshiba submitted briefing responsive to the Commission's request on January 4, 2008, and each proposed a limited exclusion order directed to the GVG respondents' accused products, and recommended allowing entry under bond of 100 percent of entered value during the period of Presidential review.

The Commission found that each of the statutory requirements of section 337(g)(1)(A)–(E), 19 U.S.C. 1337(g)(1)(A)–(E), has been met with respect to the defaulting respondents. Accordingly, pursuant to section 337(g)(1), 19 U.S.C. 1337(g)(1), and Commission rule 210.16(c), 19 CFR 210.16(c), the Commission presumed the facts alleged in the complaint to be true.

The Commission determined that the appropriate form of relief in this investigation is a limited exclusion order prohibiting the unlicensed entry of certain DVD players and recorders and products containing same by reason of infringement of claims 6 and 7 of U.S. Patent No. 5,587,991, claim 31 of U.S. Patent No. 5,870,523, and claim 4 of U.S. Patent No. 5,956,306, and that are manufactured abroad by or on behalf of, or imported by or on behalf of, the GVG respondents. The Commission further determined that the public interest factors enumerated in section 337(g)(1), 19 U.S.C. 1337(g)(1), do not preclude issuance of the limited exclusion order. Finally, the Commission determined that the bond under the limited exclusion order during the Presidential review period shall be in the amount of 100 percent of the entered value of the imported articles. The Commission's order was delivered to the President and the United States Trade Representative on the day of its issuance.

The Commission has terminated this investigation. The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and sections 210.16(c) and 210.41 of the Commission's Rules of Practice and Procedure (19 CFR 210.16(c) and § 210.41).

Issued: February 15, 2008.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–3205 Filed 2–20–08; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–488]

Global Beef Trade: Effects of Animal Health, Sanitary, Food Safety, and Other Measures on U.S. Beef Exports

AGENCY: United States International Trade Commission.

ACTION: Change in deadline for filing written submissions and change in date for transmitting report.

SUMMARY: Following receipt of a letter dated January 29, 2008, from the Committee on Finance of the United States Senate (Committee) delaying the date for transmitting its report in investigation No. 332–488, *Global Beef Trade: Effects of Animal Health, Sanitary, Food Safety, and Other Measures on U.S. Beef Exports*, the Commission extended the time for filing written submissions in the investigation to May 6, 2008, and extended the time for transmitting its report to September 8, 2008.

January 30, 2008: Receipt of letter from the Committee.

May 6, 2008: New deadline for filing written submissions.

September 8, 2008: New date for transmitting the Commission's report to the Committee.

Background: In its original request, the Committee asked that the Commission provide its report in the

investigation by June 6, 2008. In its January 29, 2008, letter the Committee extended the time for providing the report to September 8, 2008. Following receipt of the Committee's letter, the Commission adjusted its internal work schedule and also extended the deadline for filing written submissions relating to the investigation from February 29, 2008, to May 6, 2008.

The Commission published notice of institution of the investigation in the **Federal Register** on September 19, 2007 (72 FR 53603). The notice is also available on the Commission Web site at *http://www.usitc.gov*. All other information about the investigation, including a description of the subject matter to be addressed, contact information, procedures for filing written submissions, and Commission addresses, remains the same as in the original notice. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at: *http://www.usitc.gov/secretary/edis.htm*.

Issued: February 14, 2008.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–3128 Filed 2–20–08; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Under the Clean Water Act

Notice is hereby given that a proposed Consent Decree in *United States of America; Kansas Department of Health and Environment; and Roderick L. Bremby, Secretary, Kansas Department of Health and Environment* v. *Cyprus Amax Minerals Company,* Civil Action No. 08–1046–JTM–DWB, was lodged on February 13, 2008, with the United States District Court for the District of Kansas. The Consent Decree requires Cyprus Amax Minerals Company to pay $1,200,000.00 to resolve the claims of the United States and State of Kansas under Section 311(f) of the Clean Water Act, 33 U.S.C. 1321(f), and Kansas state law for natural resource damages at the Cherokee County Superfund Site (the "Site").

For thirty (30) days after the date of this publication, the Department of Justice will receive comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In either case, the comments should refer to *United States* v. *Cyprus Amax Minerals Co.,* DOJ Ref. #90–11–2–1081A.

The proposed consent decree may be examined at the office of the United States Attorney, District of Kansas, 1200 Epic Center, 301 N. Main, Wichita, KS 67202. During the public comment period, the proposed consent decree may also be examined on this Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html*. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $6.00 (25 cents per page reproduction cost) payable to the United States Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Robert E. Maher, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E8–3140 Filed 2–20–08; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA")

Notice is hereby given that on February 8, 2008, a proposed Settlement Agreement in *In re Troy Mills, Incorporated* No. 1:01–bk–13341, was lodged with the United States Bankruptcy Court for the Northern District of West Virginia.

On March 19, 2004, the United States, on behalf of the Environmental Protection Agency ("EPA"), filed a Proof of Claim under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9607(a), against the Debtor seeking recovery of $1,100,838 in past costs, plus all future costs incurred by EPA in responding to the release or threat of release of hazardous substances at the Troy Mills Superfund Site ("Site") in Troy, New Hampshire. The Settlement Agreement provides that the United States will have an allowed administrative claim against the Debtor in the amount of $14,000,000 and be allowed to place a lien for this amount on Debtor's property at the Site. Additionally, Troy Mills will provide an easement to the State of New Hampshire protecting groundwater and the remedy at the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In either case, the comments should refer to *In re Troy Mills, Incorporated* No. 1:01–bk–13341, D.J. Ref. 90–11–3–08049.

The Settlement Agreement may be examined at the Office of the United States Attorney, Northern District of West Virginia, P.O. Box 591, Wheeling, WV 26003–0011 and at U.S. EPA Region I, One Congress Street, Suite 1100 SES, Boston, MA 02114–2023 (contact Senior Enforcement Counsel David Peterson). During the public comment period, the Settlement Agreement may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html*. A copy of the Settlement Agreement may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $2.75 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Ronald G. Gluck,

Assistant Chief, Environmental, Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E8–2954 Filed 2–20–08; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated November 6, 2007 and published in the **Federal Register** on November 16, 2007, (72 FR 64680–

64681), JFC Technologies LLC., 100 West Main Street, P.O. Box 669, Bound Brook, New Jersey 08805, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Meperidine intermediate-B (9233), a basic class of controlled substance listed in schedule II.

The company plans to import the basic class of controlled substance for the production of controlled substances for clinical trials, research, analytical purposes, and distribution to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of JFC Technologies LLC. to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated JFC Technologies LLC. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic class of controlled substance listed.

Dated: February 12, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–3181 Filed 2–20–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated November 5, 2007 and published in the **Federal Register** on November 16, 2007, (72 FR 64674), Aptuit, 10245 Hickman Mills Drive, Kansas City, Missouri 64137, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Marihuana (7360), a basic class of controlled substance listed in schedule I.

The company plans to import a finished pharmaceutical product containing cannabis extracts in dosage form for packaging for a clinical trial study.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Aptuit to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Aptuit to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic class of controlled substance listed.

Dated: February 12, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–3174 Filed 2–20–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

Pursuant to 21 U.S.C. 958(i), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a registration under 21 U.S.C. 952(a)(2) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Title 21 Code of Federal Regulations (CFR), 1301.34(a), this is notice that on January 10, 2008, Sigma Aldrich Manufacturing LLC., 3500 Dekalb Street, St. Louis, Missiouri 63118, made application to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed in schedule I and II:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
Aminorex (1585)	I
Gamma Hydroxybutyric Acid (2010).	I
Methaqualone (2565)	I
Ibogaine (7260)	I
Lysergic acid diethylamide (7315)	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
4-Bromo-2,5-dimethoxyamphetamine (7391).	I
4-Bromo-2,5-dimethoxyphenethylamine (7392).	I
4-Methyl-2,5-dimethoxyamphetamine (7395).	I
2,5-Dimethoxyamphetamine (7396).	I
3;4-Methylenedioxyamphetamine (7400).	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymethamphetamine (MDMA) (7405).	I
4-Methoxyamphetamine (7411)	I
Bufotenine (7433)	I
Diethyltryptamine (7434)	I
Dimethyltryptamine (7435)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
N-Ethyl-1-phenylcyclohexylamine (7455).	I
N-Benzylpiperazine (BZP) (7493)	I
Trifluoromethylphenyl Piperazine (7494).	I
Heroin (9200)	I
Normorphine (9313)	I
Etonitazene (9624)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Nabilone (7379)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Ecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Opium powdered (9639)	II
Oxymorphone (9652)	II
Fentanyl (9801)	II

The company plans to import the listed controlled substances for sale to research facilities for drug testing and analysis.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic classes of controlled substances may file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative/ODL, Washington, DC 20537, or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative/ODL, 8701 Morrissette Drive, Springfield, VA 22152; and must be filed no later than March 24, 2008.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e) and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, (40 FR 43745), all applicants for registration to import a basic class of any controlled substances in schedule I or II are, and will continue to be, required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e) and (f) are satisfied.

Dated: February 13, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–3182 Filed 2–20–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated November 6, 2007 and published in the **Federal Register** on November 16, 2007 (72 FR 64684–64685), Tocris Cookson, Inc., 16144 Westwoods Business Park, Ellisville, Missouri 63021, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed in schedule I:

Drug	Schedule
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I

The company plans to import the above listed synthetic products for non-clinical laboratory based research only.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Tocris Cookson, Inc. to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Tocris Cookson, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed.

Dated: February 12, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–3172 Filed 2–20–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By notice dated October 31, 2007 and published in the **Federal Register** on November 7, 2007, (72 FR 62872), Hospira, Inc., 1776 North Centennial Drive, McPherson, Kansas 67460–1247, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Remifentanil (9739), a basic class of controlled substance listed in schedule II.

The company plans to import Remifentanil for use in dosage form manufacturing.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Hospira, Inc. to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Hospira, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic class of controlled substance listed.

Dated: February 12, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–3173 Filed 2–20–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated November 6, 2007 and published in the **Federal Register** on November 16, 2007, (72 FR 64679), Formulation Technologies LLC., 11400 Burnet Road, Suite 4010, Austin, Texas 78758, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Fentanyl (9801), a basic class of controlled substance listed in schedule II.

The company plans to import the listed controlled substance for clinical trials, research, analytical purposes, and distribution to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Formulation Technologies LLC. to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Formulation Technologies LLC. to ensure that the company's

registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic class of controlled substance listed.

Dated: February 12, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–3180 Filed 2–20–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated November 20, 2007 and published in the **Federal Register** on November 30, 2007 (72 FR 67759), Lipomed Inc., One Broadway, Cambridge, Massachusetts 02142, made application to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed in schedule I:

Drug	Schedule
Methcathinone (1237)	I
N–Ethylamphetamine (1475)	I
Gamma Hydroxybutyric Acid (2010).	I
2,5-Dimethoxy-4-[n]-propylthiophenethylamine (7348).	I

The company plans to import the listed controlled substances for clinical trials, research, analytical purposes, and distribution to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Lipomed Inc. to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Lipomed Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above-named company is granted registration as an importer of the basic class of controlled substance listed.

Dated: February 12, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–3183 Filed 2–20–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated August 16, 2007 and published in the **Federal Register** on August 27, 2007 (72 FR 49020), CIMA Labs, Inc., 10000 Valley View Road, Attention: Jason Gardner, Eden Prairie, Minnesota 55344, made application by letter to the Drug Enforcement Administration (DEA) to be registered as an importer of Nabilone (7379), a basic class of controlled substance listed in schedule II.

The company plans to import the basic class of controlled substance for clinical trials and research.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of CIMA Labs, Inc. to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated CIMA Labs, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above-named company is granted registration as an importer of the basic class of controlled substance listed.

Dated: February 12, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–3184 Filed 2–20–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

Pursuant to 21 U.S.C. 958(i), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a registration under 21 U.S.C. 952(a)(2) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Title 21 Code of Federal Regulations (CFR), 1301.34(a), this is notice that on September 18, 2007, United States Pharmacopeial Convention, 12601 Twinbrook Parkway, Rockville, Maryland 20852, made application to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed in schedule I and II:

Drug	Schedule
Cathinone (1235)	I
Methaqualone (2565)	I
Lysergic acid diethylamide (7315)	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
4-Methyl-2,5-dimethoxyamphetamine (7395).	I
3,4-Methylenedioxyamphetamine (7400).	I
Codeine-n-oxide (9053)	I
Heroin (9200)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Phenmetrazine (1631)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Phencyclidine (7471)	II
Alphaprodine (9010)	II
Anileridine (9020)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II

Drug	Schedule
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The company plans to import reference standards for sale to researchers and analytical labs.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic classes of controlled substances may file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537, or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, VA. 22152; and must be filed no later than March 24, 2008.

This procedure is to be conducted simultaneously with, and independent of, the procedures described in 21 CFR 1301.34(b), (c), (d), (e) and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, (40 FR 43745–46), all applicants for registration to import a basic class of any controlled substances in schedule I or II are, and will continue to be, required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e), and (f) are satisfied.

Dated: February 12, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–3178 Filed 2–20–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated November 6, 2007 and published in the **Federal Register** on November 16, 2007 (72 FR 64678–64679), Fisher Clinical Services Inc., 7554 Schantz Road, Allentown, Pennsylvania 18106, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Noroxymorphone (9668), a basic class of controlled substance listed in schedule II.

The company plans to import the listed controlled substance for analytical research and clinical trials.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Fisher Clinical Services Inc. to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Fisher Clinical Services Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic class of controlled substance listed.

Dated: February 12, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–3171 Filed 2–20–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on December 10, 2007, Johnson Matthey, Inc., Custom Pharmaceuticals Department, 2003 Nolte Drive, West Deptford, New Jersey 08066–1742, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Lisdexamfetamine (1205), a basic class of controlled substance listed in schedule II.

The company plans to manufacture the listed controlled substance in bulk for sale to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administrator, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537, or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than April 21, 2008.

Dated: February 13, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–3176 Filed 2–20–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 2, 2008, Siemens Healthcare Diagnostics Inc., 100 GBC Drive, Mail Stop 514, Newark, Delaware 19702, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedules I and II:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Ecgonine (9180)	II
Morphine (9300)	II

The company plans to produce the listed controlled substances in bulk to be used in the manufacture of reagents and drug calibrator/controls which are DEA exempt products.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances

may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administrator, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537, or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than April 21, 2008.

Dated: February 13, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–3175 Filed 2–20–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 10, 2008, Roche Diagnostics Operations, Inc., Attn: Regulatory Compliance, 9115 Hague Road, Indianapolis, Indiana 46250, made application by renewal to the Drug Enforcement Administration (DEA) as a bulk manufacturer of the basic classes of controlled substances listed in schedules I and II:

Drug	Schedule
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (THC) (7370).	I
Alphamethadol (9605)	I
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II
Methadone (9250)	II
Morphine (9300)	II

The company plans to manufacture small quantities of the listed controlled substances for use in diagnostic products.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537, or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than April 21, 2008.

Dated: February 12, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–3177 Filed 2–20–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated September 21, 2007, and published in the **Federal Register** on September 27, 2007, (72 FR 54930), ISP Freetown Fine Chemicals, 238 South Main Street, Assonet, Massachusetts 02702, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedules I and II:

Drug	Schedule
2,5–Dimethoxyamphetamine (7396).	I
Amphetamine (1100)	II
Phenylacetone (8501)	II

The company plans to manufacture Phenylacetone to be used in the manufacture of Amphetamine for distribution to its customers. The bulk 2,5–Dimethoxyamphetamine will be used for conversion into non-controlled substances.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of ISP Freetown Fine Chemicals to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated ISP Freetown Fine Chemicals to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: February 12, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–3179 Filed 2–20–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,422]

Curtain & Drapery Fashions Including On-Site Leased Workers From Paychex Business Solutions, Lowell, 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 December 19, 2007, applicable to workers of Curtain & Drapery Fashions, Lowell, North Carolina. The notice was published in the **Federal Register** on January 16, 2008 (72 FR 2943).

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 curtains, bedspreads and comforters.

New information shows that leased workers of Paychex Business Solutions were employed on-site at the Lowell, North Carolina location of Curtain & Drapery Fashions. The Department has determined that these workers were sufficiently under the control of Curtain & Drapery Fashions to be considered leased workers.

Based on these findings, the Department is amending this certification to include leased workers of Paychex Business Solutions working on-site at the Lowell, North Carolina location of the subject firm.

The intent of the Department's certification is to include all workers employed at Curtain & Drapery Fashions, Lowell, North Carolina who were adversely impacted by increased customer imports of curtains, bedspreads and comforters.

The amended notice applicable to TA–W–62,422 is hereby issued as follows:

"All workers of Curtain & Drapery Fashions, including on-site leased workers of Paychex Business Solutions, Lowell, North Carolina, who became totally or partially separated from employment on or after November 1, 2006 through December 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 8th day of February 2008.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–3221 Filed 2–20–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,656]

Saint-Gobain Abrasives, Norton Pike Division Including On-Site Leased Workers From Allstaff, Littleton, NH; 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 16, 2008, applicable to workers of Saint-Gobain Abrasives, Norton Pike Division, Littleton, New Hampshire. The notice was published in the **Federal Register** on February 1, 2008 (73 FR 6212).

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 abrasive stones.

New information shows that leased workers of Allstaff were employed on-site at the Littleton, New Hampshire location of Saint-Gobain Abrasives, Norton Pike Division. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include leased workers of Allstaff working on-site at the Littleton, New Hampshire location of the subject firm.

The intent of the Department's certification is to include all workers employed at Saint-Gobain Abrasives, Norton Pike Division, Littleton, New Hampshire who were adversely-impacted by a shift in production of abrasive stones to Mexico.

The amended notice applicable to TA–W–62,656 is hereby issued as follows:

"All workers of Saint-Gobain Abrasives, Norton Pike Division, including on-site leased workers from Allstaff, Littleton, New Hampshire, who became totally or partially separated from employment on or after January 9, 2007, through January 16, 2010, 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 13th day of February 2008.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–3222 Filed 2–20–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,758]

Parker International Products, Inc.; Worcester, MA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 29, 2008 in response to a petition filed by a company official on behalf of workers of Parker International Products, Inc., Worcester, Massachusetts.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated. Therefore, further investigation in this case would serve no purpose.

Signed at Washington, DC, this 7th day of February, 2008.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–3224 Filed 2–20–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,740]

Tail Inc., Miami, FL; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 18, 2008 in response to a worker petition filed by an authorized representative on behalf of workers at Tail Inc., Miami, Florida.

The petitioning group of workers is covered by an earlier petition (TA–W–62732) filed on January 24, 2008 that is the subject of an ongoing investigation for which a determination has not yet been issued. Further investigation in this case would duplicate efforts and serve no purpose; therefore the investigation under this petition has been terminated.

Signed at Washington, DC, this 12th day of February 2008.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–3223 Filed 2–20–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0090]

Voluntary Protection Program Application Information; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comment.

SUMMARY: OSHA solicits public comment concerning its proposal to extend OMB approval of the information collection requirements contained in the Voluntary Protection Programs.

DATES: Comments must be submitted (postmarked, sent, or received) by April 21, 2008.

ADDRESSES: *Electronically:* You may submit comments and attachments electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit three copies of your comments and attachments to the OSHA Docket Office, OSHA Docket No. OSHA–2007–0090, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number for the ICR (OSHA–2007–0090). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the "Public Participation" heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Cathy Oliver at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Cathy Oliver, Director, Office of Partnerships and Recognition, Directorate of Cooperative and State Programs, OSHA, U.S. Department of Labor, Room N–3700, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2213.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA 95) [44 U.S.C. 3506(c)(2)(A)]. This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

The Voluntary Protection Programs (VPP) [47 FR 29025], adopted by OSHA, established the efficacy of cooperative action among government, industry, and labor to address employee safety and health issues and to expand employee protection. To qualify, employers must meet OSHA's rigorous safety and health management criteria which focus on comprehensive management systems and active employee involvement to prevent or control worksite safety and health hazards. Employers who qualify generally view OSHA standards as a minimum level of safety and health performance, and set their own more stringent standards, wherever necessary, to improve employee protection.

Prospective VPP worksites must submit an application that includes:

General applicant information (e.g., site, corporate, and collective bargaining contact information).

Injury and illness rate performance information (i.e., number of employees and/or applicable contractors on-site, type of work performed and products produced, North American Industry Classification System, and Recordable Injury and Illness Case Incidence Rate information).

Safety and health management system information (i.e., description of the applicant's safety and health management system including how the system successfully addresses management leadership and employee involvement, worksite analysis, hazard prevention and control, and safety and health training).

OSHA uses this information to determine whether an applicant is ready for a VPP on-site evaluation and as a verification tool during VPP on-site evaluations. Without this information, OSHA would be unable to determine which sites are ready for VPP status.

Each current VPP applicant is also required to submit an annual evaluation which addresses how that applicant is continuing its adherence to programmatic requirements.

In 2008 OSHA modified procedures for VPP applicants, OSHA on-site evaluation, and annual participant self-evaluation for applicants/participants subject to OSHA's Process Safety Management (PSM) Standard. Applicants that perform work that uses or produces highly hazardous chemicals exceeding specified limits covered under the (PSM) standard must submit responses to the PSM application supplement along with their VPP application.

Once in the VPP, the participant is required to submit an annual evaluation detailing its continued adherence to programmatic requirements. Applicants covered under the PSM standard are required to submit a PSM questionnaire, a supplemental document as part of their annual submission. OSHA needs this information to ensure that the participant remains qualified to participate in the VPP between onsite evaluations. Without this information, OSHA would be unable to determine whether applicants are maintaining excellent safety and health management systems during this interim period.

The Occupational Safety and Health Administration (OSHA) decided to continue the OSHA Challenge and VPP Corporate Pilot programs. These new initiatives will expand VPP to promote the safety and health of thousands of employees across the nation.

OSHA Challenge is designed to reach and guide employers and companies in all major industry groups who are strongly committed to improving their safety and health management systems and are interested in pursuing recognition in VPP. OSHA Challenge provides participants a guide or roadmap to improve performance and ultimately to achieve VPP approval. OSHA Challenge outlines the requirements needed to develop and implement effective safety and health management systems through incremental steps. At each stage, certain actions, documentation and outcomes are required in the areas covered by VPP criteria. Participants receive recognition from OSHA at the completion of each stage.

Each Challenge Pilot Administrator is required to submit to OSHA electronically a Challenge Pilot Administrator's application package, Administrator's Statement of Commitment, Challenge Pilot Administrator Information Form, Challenge Pilot Administrator's Quarterly Report (if there have been significant changes to any of its participants' sites), Challenge Pilot Administrator's Annual Report (The Challenge Pilot Administrator must prepare and submit the annual report electronically to OSHA).

The VPP Corporate Pilot is designed to provide a more efficient process for corporations to increase their level of participation in VPP. The pilot concept is two-fold; the corporations submit an application that describes corporate level policies and programs that are uniformly applied at facilities across the corporation. A comprehensive On-site Corporate Evaluation is conducted by OSHA to verify the contents of the application. Once a corporation is accepted in the VPP Corporate Pilot, all eligible corporate facilities will apply for VPP participation using a more efficient streamlined application and OSHA conducts a more streamlined on-site evaluation. Corporations accepted in the VPP Corporate Pilot must submit an annual safety and health report.

Employees of VPP participants may apply to participate in the Special Government Employee (SGE) Program. The SGE Program was established as a means to leverage OSHA's limited resources. Through this program, employees of VPP participants are trained to take part as team members during VPP on-site evaluations. In that capacity, Special Government Employees may review company documents, assist with worksite walkthroughs, interview employees, and assist in preparing VPP on-site evaluation reports. Potential Special Government Employees must submit a Special Government Employee's application that includes:

SGE Eligibility Information Sheet (i.e., applicant's name, professional credentials, site/corporate contact information, etc.).
Current Resume.
Confidential Financial Disclosure Report (OGE Form 450).

OSHA uses the SGE Eligibility Information Sheet to ensure that the potential SGE works at a VPP site and meets the minimum eligibility qualifications. The resume is required to provide a detailed description of their current duties and responsibilities as they relate to safety and health and the implementation of an effective safety and health management system. The OGE Form 450 is used to ensure that SGEs do not participate on on-site evaluations at VPP sites where they have a financial interest.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA proposes to extend the Office of Management and Budget's (OMB) Approval of the collection of information (paperwork) requirements necessitated by the Voluntary Protection Programs. The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend the approval of these information collection requirements.

Type of Review: Extension of currently approved collection.

Title: Voluntary Protection Programs Information.

OMB Number: 1218–0239.

Affected Public: Business or other for-profits; and individuals or households.

Number of Respondents:

VPP
- 274 Applications
- 68 Process Safety Management Applications
- 1,300 Annual Evaluations
- 300 (PSM) Annual Evaluations/ Supplemental Questionnaire

OSHA Challenge
- 17 Applications from Challenge Pilot Administrators
- 120 Applications from Challenge Pilot Candidates
- 120 Quarterly Reports
- 120 Annual Evaluations

VPP Corporate
- 7 Applications from VPP Corporations
- 120 Applications from VPP Corporate Facilities
- 7 Annual Reports

Special Government Employees
- 300 SGE Eligibility Information Sheets
- 300 Resumes
- 300 Confidential Financial Disclosure Forms (OGE–Form 450)

Total respondents: 2,985 total respondents.

Frequency: VPP applications, Challenge Pilot Administrator's applications, Challenge Pilot Candidate applications, VPP Corporate Pilot applications and VPP Corporate Pilot Facility VPP applications are submitted once; Challenge Pilot Administrator's Quarterly Reports are submitted quarterly (if there have been significant changes to any of its participants' sites); VPP Annual Evaluations, Challenge Pilot Administrator's Annual Report, and Corporate Safety and Health Reports are submitted once per year; and Special Government Employee applications are submitted once every three years.

Average Time Per Response:

VPP General
- 200 hours for VPP applications
- 20 hours for VPP evaluations

Process Safety Management
- 40 hours for applications
- 20 hours for evaluations

OSHA Challenge
- 5 hours for Challenge Pilot Administrator applications
- 10 hours for Challenge Pilot Candidate applications
- 5 hours for Challenge Pilot Candidate quarterly reports
- 20 hours for Challenge Pilot Candidate annual reports

VPP Corporate
- 120 hours for VPP Corporations applications
- 80 hours for VPP Corporate facility applications
- 40 hours for VPP Corporations annual reports

Special Government Employees (SGE)
- 30 minutes for SGE Eligibility Information Sheet
- 60 minutes for SGE Resume

Estimated Total Burden Hours:

VPP General
- 54,800 hours for VPP application
- 26,000 hours for VPP annual evaluations

Process Safety Management
- 2,720 hours for applications
- 6,000 hours for annual evaluations

OSHA Challenge
- 85 hours for Challenge Administrators' applications
- 1,200 hours for Challenge Pilot Candidates' applications
- 1,800 hours for Challenge Candidates' quarterly reports
- 2,400 hours for Challenge Candidates' annual reports

VPP Corporate
- 840 hours for Corporations' applications
- 9,600 hours for Corporate VPP facility applications
- 280 hours for Corporate facility annual reports

Special Government Employees (SGE)
- 150 hours for SGE Eligibility Information Sheet
- 300 hours for Resume

Total Burden Hours per year (3-year average): 106,175.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal; (2) by facsimile (FAX); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2007–0090). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES** The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov*. Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (e.g., copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's "User Tips" link. Contact the OSHA Docket Office for information about materials not available through the web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 3–2007 (67 FR 31159).

Signed at Washington, DC on February 14, 2008.

Edwin G. Foulke, Jr.,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. E8–3153 Filed 2–20–08; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (08–016)]

Notice of Intent To Grant Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant exclusive license.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant an exclusive license in the United States to practice the invention described and claimed in U.S. Patent Application Serial No. 10/385,168 entitled "Phase/Matrix Transformation Weld Process and Apparatus" and NASA Case No. MFS–31559–1–DIV to Keystone Synergistic Enterprises, Inc. having its principal place of business in Port St. Lucie, Florida. The patent rights in this invention have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

DATES: The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective license may be submitted to Mr. James J. McGroary, Chief Patent Counsel/LS01, Marshall Space Flight Center, Huntsville, AL 35812, (256) 544–0013.

FOR FURTHER INFORMATION CONTACT: Sammy A. Nabors, Technology Transfer Program Office/ED03, Marshall Space Flight Center, Huntsville, AL 35812, (256) 544–5226. Information about other NASA inventions available for licensing can be found online at *http://techtracs.nasa.gov/*.

Dated: February 13, 2008.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. E8–3136 Filed 2–20–08; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (08–015)]

Notice of Intent To Grant Partially Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant partially exclusive license.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant a partially exclusive license worldwide to practice the inventions described and claimed in U.S. Patent Nos. 5,684,531, entitled "Ranging Apparatus and Method Implementing Stereo Vision System"; 5,673,082, entitled "Light-Directed Ranging System Implementing Single Camera System for Telerobotics Applications"; and 6,244,644, entitled "Compact Dexterous Robotic Hand", to HyperMedia Corporation, having its principal place of business in Barker, Texas. The fields of use may be limited to underwater applications for oil and gas exploration and production. The patent rights in these inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective partially exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

DATES: The prospective partially exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35

U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated partially exclusive license. Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective license may be submitted to Patent Counsel, Office of Chief Counsel, Mail Code AL, 2101 NASA Parkway, Houston, TX 77058, (281) 483–4871; (281) 483–6936 [Facsimile].

FOR FURTHER INFORMATION CONTACT: Kurt G. Hammerle, Patent Attorney, Office of Chief Counsel, Johnson Space Center, Mail Code AL, 2101 NASA Parkway, Houston, TX 77058, (281) 483–1001; (281) 483–6936 [Facsimile]. Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov/.*

Dated: February 13, 2008.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. E8–3139 Filed 2–20–08; 8:45 am]

BILLING CODE 7510–13–P

OFFICE OF NATIONAL DRUG CONTROL POLICY

Paperwork Reduction Act; Notice of Intent to Collect; Comment Request

AGENCY: Office of National Drug Control Policy (ONDCP).

ACTION: ONDCP provides opportunity for public comment concerning the collection of information to identify states that have adopted the new Healthcare Common Procedure Coding System (HCPCS) codes (Codes H0049 and H0050) for alcohol and drug screening, and brief intervention (SBI).

SUMMARY: This action proposes the collection of drug control information from state Medicaid directors.

SUPPLEMENTARY INFORMATION:

I. Purpose

The purpose of this survey is to identify states that have adopted HCPCS codes H0049 and H0050 to permit payment of SBI services from state Medicaid programs. The information will be used as performance indicators in the Consolidated Federal Drug Control Budget and will help inform policy by providing a greater understanding of the level of state participation in the SBI concept.

Type of Collection: Survey of state Medicaid directors.

Title of Information Collection: Healthcare Common Procedure Coding System Survey.

Frequency: Annually by fiscal year.

Affected Public: Instrumentalities of state Medicaid directors.

Estimated Burden: Minimal since the material resides with state Medicaid directors.

II. Special Issues for Comment

ONDCP especially invites comments on: (a) Whether the proposed collection is necessary for the proper performance of ONDCP functions, including whether the information has practical utility; (b) ways to enhance information quality, utility, and clarity; and, (c) ways to ease the burden on respondents, including the use of automated collection techniques or other forms of information technology.

ADDRESSES: Address all comments in writing 60 days to Meridith DeFraites. Facsimile and email are the more reliable means of communication. Ms. DeFraites facsimile number is (202) 395–5176, and her e-mail address is *mdefraites@ondcp.eop.gov.* Mailing address is Executive office of the President, Office of National Drug Control Policy, Washington, DC 20503. For further information, contact Ms. DeFraites at (202) 395–5276.

Signed at Washington DC, on February 15, 2008.

Daniel R. Petersen,

Assistant General Counsel.

[FR Doc. E8–3227 Filed 2–20–08; 8:45 am]

BILLING CODE 3180–D2–P

NATIONAL SCIENCE FOUNDATION

Astronomy and Astrophysics Advisory Committee #13883; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following Astronomy and Astrophysics Advisory Committee (#13883) meeting:

Date and Time: March 10, 2008, 3 p.m.–5 p.m. EDT.

Place: Teleconference, National Science Foundation, Room 1020, Stafford I Building, 4201 Wilson Blvd., Arlington, VA, 22230.

Type of Meeting: Open.

Contact Person: Dr. G. Wayne Van Citters, Director, Division of Astronomical Sciences, Suite 1045, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: 703–292–4908.

Purpose of Meeting: To provide advice and recommendations to the National Science Foundation (NSF), the National Aeronautics and Space Administration (NASA) and the U.S. Department of Energy (DOE) on issues within the field of astronomy and astrophysics that are of mutual interest and concern to the agencies.

Agenda: To discuss the Committee's draft annual report due 15 March 2008.

Dated: February 15, 2008.

Susanne E. Bolton,

Committee Management Officer.

[FR Doc. E8–3185 Filed 2–20–08; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 03033359]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment to Byproduct Materials License No. 37–30095–01, for Termination of the License and Unrestricted Release of MPI Research Incorporated's Facility in State College, PA

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Environmental Assessment and Finding of No Significant Impact for License Amendment.

FOR FURTHER INFORMATION CONTACT: Dennis Lawyer, Health Physicist, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I, 475 Allendale Road, King of Prussia, Pennsylvania; telephone 610–337–5366; fax number 610–337–5393; or by e-mail: *drl1@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of a license amendment to Byproduct Materials License No. 37–30095–01. This license is held by MPI Research Inc. (the Licensee), for its MPI Research Inc. facility located at 3048 and 3058 Research Drive in State College, Pennsylvania (the Facility). Issuance of the amendment would authorize release of the Facility for unrestricted use and termination of the NRC license. The Licensee requested this action in a letter dated November 15, 2007. The NRC has prepared an Environmental Assessment (EA) in

support of this proposed action in accordance with the requirements of Title 10, Code of Federal Regulations (CFR), Part 51 (10 CFR Part 51). Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate with respect to the proposed action. The amendment will be issued to the Licensee following the publication of this FONSI and EA in the **Federal Register**.

II. Environmental Assessment

Identification of Proposed Action

The proposed action would approve the Licensee's November 15, 2007, license amendment request, resulting in release of the Facility for unrestricted use and the termination of its NRC materials license. License No. 37–30095–01 was issued on February 28, 1994, pursuant to 10 CFR Part 30, and has been amended periodically since that time. This license authorized the Licensee to use unsealed byproduct material for purposes of conducting research and development activities on laboratory bench tops and in hoods.

The Facility is comprised of two buildings and consists of office space and laboratories. The Facility is located in a commercial area. Within the 30,000 square foot Facility, use of licensed materials was confined to 2,410 square feet.

During the summer of 2007, the Licensee ceased licensed activities at the Facility and initiated survey and decontamination actions there. Based on the Licensee's historical knowledge of the site and the conditions of the Facility, the Licensee determined that only routine decontamination activities, in accordance with their NRC-approved, operating radiation safety procedures, were required. The Licensee was not required to submit a decommissioning plan to the NRC because worker cleanup activities and procedures are consistent with those approved for routine operations. The Licensee conducted surveys of the Facility and provided information to the NRC to demonstrate that it meets the criteria in Subpart E of 10 CFR Part 20 for unrestricted release and for license termination.

Need for the Proposed Action

The Licensee has ceased conducting licensed activities at the Facility, and seeks the unrestricted use of its Facility and the termination of its NRC materials license. Termination of its license would end the Licensee's obligation to pay annual license fees to the NRC.

Environmental Impacts of the Proposed Action

The historical review of licensed activities conducted at the Facility shows that such activities involved use of the following radionuclide with half-lives greater than 120 days: carbon-14. Prior to performing the final status survey, the Licensee conducted decontamination activities, as necessary, in the areas of the Facility affected by this radionuclide.

A final status survey was conducted in conjunction with the closeout of each area within the Facility, and these surveys were done during July through October 2007. The final status survey report was attached to the Licensee's amendment request dated November 15, 2007. The Licensee elected to demonstrate compliance with the radiological criteria for unrestricted release as specified in 10 CFR 20.1402 by using the screening approach described in NUREG–1757, "Consolidated NMSS Decommissioning Guidance," Volume 2. The Licensee used the radionuclide-specific derived concentration guideline levels (DCGLs), developed there by the NRC, which comply with the dose criterion in 10 CFR 20.1402. These DCGLs define the maximum amount of residual radioactivity on building surfaces, equipment, and materials, that will satisfy the NRC requirements in Subpart E of 10 CFR part 20 for unrestricted release. The Licensee's final status survey results were below these DCGLs and are in compliance with the As Low As Reasonably Achievable (ALARA) requirement of 10 CFR 20.1402. The NRC thus finds that the Licensee's final status survey results are acceptable.

Based on its review, the staff has determined that the affected environment and any environmental impacts associated with the proposed action are bounded by the impacts evaluated by the "Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities" (NUREG–1496) Volumes 1–3 (ML042310492, ML042320379, and ML042330385). The Licensee also considered and appropriately accounted for the dose contribution from previous site releases including the impact of residual radioactivity at previously-released site locations of use. The staff finds there were no significant environmental impacts from the use of radioactive material at the Facility. The NRC staff reviewed the docket file records and the final status survey report to identify any non-radiological hazards that may have impacted the environment surrounding the Facility. No such hazards or impacts to the environment were identified. The NRC has identified no other radiological or non-radiological activities in the area that could result in cumulative environmental impacts.

The NRC staff finds that the proposed release of the Facility for unrestricted use and the termination of the NRC materials license is in compliance with 10 CFR 20.1402. Based on its review, the staff considered the impact of the residual radioactivity at the Facility and concluded that the proposed action will not have a significant effect on the quality of the human environment.

Environmental Impacts of the Alternatives to the Proposed Action

Due to the largely administrative nature of the proposed action, its environmental impacts are small. Therefore, the only alternative the staff considered is the no-action alternative, under which the staff would leave things as they are by simply denying the amendment request. This no-action alternative is not feasible because it conflicts with 10 CFR 30.36(d), requiring that decommissioning of byproduct material facilities be completed and approved by the NRC after licensed activities cease. The NRC's analysis of the Licensee's final status survey data confirmed that the Facility meets the requirements of 10 CFR 20.1402 for unrestricted release and for license termination. Additionally, denying the amendment request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the no-action alternative are therefore similar, and the no-action alternative is accordingly not further considered.

Conclusion

The NRC staff has concluded that the proposed action is consistent with the NRC's unrestricted release criteria specified in 10 CFR 20.1402. Because the proposed action will not significantly impact the quality of the human environment, the NRC staff concludes that the proposed action is the preferred alternative.

Agencies and Persons Consulted

NRC provided a draft of this Environmental Assessment to the Commonwealth of Pennsylvania Department of Environmental Protection for review on January 25, 2008. On January 29, 2008, the Commonwealth of Pennsylvania Department of Environmental Protection responded by electronic mail. The Commonwealth

agreed with the conclusions of the EA, and otherwise had no comments.

The NRC staff has determined that the proposed action is of a procedural nature, and will not affect listed species or critical habitat. Therefore, no further consultation is required under Section 7 of the Endangered Species Act. The NRC staff has also determined that the proposed action is not the type of activity that has the potential to cause effects on historic properties. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The NRC staff has prepared this EA in support of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a Finding of No Significant Impact is appropriate.

IV. Further Information

Documents related to this action, including the application for license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html*. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents related to this action are listed below, along with their ADAMS accession numbers.

1. NUREG–1757, "Consolidated NMSS Decommissioning Guidance;"
2. Title 10 Code of Federal Regulations, Part 20, Subpart E, "Radiological Criteria for License Termination;"
3. Title 10, Code of Federal Regulations, Part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions;"
4. NUREG–1496, "Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities;"
5. MPI Research Inc. Termination Request dated November 15, 2007 [ML073370821].

If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*. These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Region I, 475 Allendale Road this 13th day of February 2008.

For the Nuclear Regulatory Commission.

James P. Dwyer,

Chief, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I.

[FR Doc. E8–3200 Filed 2–20–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–36603]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment to Byproduct Materials License No. 37–30924–01, for the Unrestricted Release of the Tetralogic Pharmaceutical Facility in Malvern, PA

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Environmental Assessment and Finding of No Significant Impact for License Amendment.

FOR FURTHER INFORMATION CONTACT: Farrah Gaskins, Health Physicist, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406; telephone (610) 337–5143; fax number (610) 337–5269; or by e-mail: *fcg@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of a license amendment to Byproduct Materials License No. 37–30924–01. This license is held by TetraLogic Pharmaceuticals (the Licensee), for its facility located at 365 Phoenixville Pike in Malvern, Pennsylvania (the Facility). Issuance of the amendment would authorize release of the Facility for unrestricted use. The Licensee requested this action in a letter dated March 27, 2007. The NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements of Title 10, Code of Federal Regulations (CFR), Part 51 (10 CFR part 51). Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate with respect to the proposed action. The amendment will be issued to the Licensee following the publication of this FONSI and EA in the **Federal Register**.

II. Environmental Assessment

Identification of Proposed Action

The proposed action would approve the Licensee's March 27, 2007, license amendment request, resulting in release of the Facility for unrestricted use. License No. 37–30924–01 was issued on September 8, 2004, pursuant to 10 CFR part 30, and has been amended periodically since that time. This license authorized the Licensee to use byproduct material in any form for purposes of conducting research and development activities as defined in 10 CFR 30.4.

The Facility contains 4,000 square feet of office space and laboratories. Within the Facility, use of licensed materials was confined to the Biology lab and adjacent lab corridor.

In July 2004, the Licensee ceased licensed activities, initiated a survey and began decontamination of the Facility. Based on the Licensee's historical knowledge of the site and the conditions of the Facility, the Licensee determined that only routine decontamination activities, in accordance with their NRC-approved, operating radiation safety procedures, were required. The Licensee was not required to submit a decommissioning plan to the NRC because worker cleanup activities and procedures are consistent with those approved for routine operations. The Licensee conducted surveys of the Facility and provided information to the NRC to demonstrate that it meets the criteria in Subpart E of 10 CFR part 20 for unrestricted release.

Need for the Proposed Action

The Licensee has ceased conducting licensed activities at the Facility, and seeks the unrestricted use of its Facility.

Environmental Impacts of the Proposed Action

The historical review of licensed activities conducted at the Facility shows that such activities involved use of the following radionuclides with half-lives greater than 120 days: Hydrogen-3. Prior to performing the final status survey, the Licensee conducted decontamination activities, as necessary, in the areas of the Facility affected by these radionuclides.

The Licensee conducted a final status survey on January 31, 2007. This survey covered the Biology lab, the adjacent lab corridor, and adjacent areas. The final status survey report was attached to the Licensee's amendment request dated

March 27, 2007. The Licensee elected to demonstrate compliance with the radiological criteria for unrestricted release as specified in 10 CFR 20.1402 by using the screening approach described in NUREG–1757, "Consolidated NMSS Decommissioning Guidance," Volume 2. The Licensee used the radionuclide-specific derived concentration guideline levels (DCGLs), developed there by the NRC, which comply with the dose criterion in 10 CFR 20.1402. These DCGLs define the maximum amount of residual radioactivity on building surfaces, equipment, and materials, and in soils, that will satisfy the NRC requirements in Subpart E of 10 CFR part 20 for unrestricted release. The Licensee's final status survey results were below these DCGLs and are in compliance with the As Low As Reasonably Achievable (ALARA) requirement of 10 CFR 20.1402. The NRC thus finds that the Licensee's final status survey results are acceptable.

Based on its review, the staff has determined that the affected environment and any environmental impacts associated with the proposed action are bounded by the impacts evaluated by the "Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities" (NUREG–1496) Volumes 1–3 (ML042310492, ML042320379, and ML042330385). The staff finds there were no significant environmental impacts from the use of radioactive material at the Facility. The NRC staff reviewed the docket file records and the final status survey report to identify any non-radiological hazards that may have impacted the environment surrounding the Facility. No such hazards or impacts to the environment were identified. The NRC has identified no other radiological or non-radiological activities in the area that could result in cumulative environmental impacts.

The NRC staff finds that the proposed release of the Facility for unrestricted use is in compliance with 10 CFR 20.1402. Based on its review, the staff considered the impact of the residual radioactivity at the Facility and concluded that the proposed action will not have a significant effect on the quality of the human environment.

Environmental Impacts of the Alternatives to the Proposed Action

Due to the largely administrative nature of the proposed action, its environmental impacts are small. Therefore, the only alternative the staff considered is the no-action alternative, under which the staff would leave things as they are by simply denying the amendment request. This no-action alternative is not feasible because it conflicts with 10 CFR 30.36(d), requiring that decommissioning of byproduct material facilities be completed and approved by the NRC after licensed activities cease. The NRC's analysis of the Licensee's final status survey data confirmed that the Facility meets the requirements of 10 CFR 20.1402 for unrestricted release. Additionally, denying the amendment request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the no-action alternative are therefore similar, and the no-action alternative is accordingly not further considered.

Conclusion

The NRC staff has concluded that the proposed action is consistent with the NRC's unrestricted release criteria specified in 10 CFR 20.1402. Because the proposed action will not significantly impact the quality of the human environment, the NRC staff concludes that the proposed action is the preferred alternative.

Agencies and Persons Consulted

NRC provided a draft of this Environmental Assessment to the Commonwealth of Pennsylvania's Department of Environmental Protection, Bureau of Radiation Protection for review on September 10, 2007. On December 27, 2007, the Commonwealth of Pennsylvania responded by e-mail. The Commonwealth agreed with the conclusions of the EA and otherwise had no comments.

The NRC staff has determined that the proposed action is of a procedural nature, and will not affect listed species or critical habitat. Therefore, no further consultation is required under Section 7 of the Endangered Species Act. The NRC staff has also determined that the proposed action is not the type of activity that has the potential to cause effects on historic properties. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The NRC staff has prepared this EA in support of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a Finding of No Significant Impact is appropriate.

IV. Further Information

Documents related to this action, including the application for license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html*. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents related to this action are listed below, along with their ADAMS accession numbers.

1. NUREG–1757, "Consolidated NMSS Decommissioning Guidance;"

2. Title 10 Code of Federal Regulations, Part 20, Subpart E, "Radiological Criteria for License Termination;"

3. Title 10, Code of Federal Regulations, Part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions;"

4. NUREG–1496, "Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities;"

5. Letter dated March 27, 2007; Final Site Survey and NRC Form 314 (ML071550135).

If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*. These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at King of Prussia, Pennsylvania this 12th day of February, 2008.

For the Nuclear Regulatory Commission.

James P. Dwyer,

Chief, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I.

[FR Doc. E8–3203 Filed 2–20–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–482]

Wolf Creek Nuclear Operating Corporation; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission, or the NRC) is considering issuance of an amendment to Facility Operating License No. NPF–42 to Wolf Creek Nuclear Operating Corporation (the licensee) for operation of the Wolf Creek Generating Station (WCGS), which is located in Coffey County, Kansas.

The proposed amendment in the licensee's application dated February 8, 2008, would revise Technical Specification (TS) 5.5.9, "Steam Generator (SG) Program," and TS 5.6.10, "Steam Generator Tube Inspection Report." For TS 5.5.9, the amendment would replace the existing alternate repair criteria (ARC) in TS 5.5.9.c.1 for SG tube inspections that was approved in Amendment No. 169 issued October 10, 2006, for refueling outage 15 (the outage for the fall of 2006) and the subsequent operating cycle. The new interim ARC would be for the upcoming refueling outage 16 (the outage for the spring of 2008) and the subsequent 18-month and 36-month eddy current inspection intervals, and would apply to service-induced crack-like flaws found below 17 inches from the top of the tubesheet. For TS 5.6.10, three new reporting requirements are proposed to be added to the existing seven requirements.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in Title 10 of the Code of Federal Regulations (10 CFR), § 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

Of the various accidents previously evaluated, the proposed changes only affect the steam generator tube rupture (SGTR) event evaluation and the postulated steam line break (SLB), locked rotor and control rod ejection accident evaluations. Loss-of-coolant accident (LOCA) conditions cause a compressive axial load to act on the tube. Therefore, since the LOCA tends to force the tube into the tubesheet rather than pull it out, it is not a factor in this amendment request. Another faulted load consideration is a safe shutdown earthquake (SSE); however, the seismic analysis of Model F steam generators [the steam generators at WCGS] has shown that axial loading of the tubes is negligible during an SSE.

At normal operating pressures, leakage from primary water stress corrosion cracking (PWSCC) below 17 inches from the top of the tubesheet is limited by both the tube-to-tubesheet crevice and the limited crack opening permitted by the tubesheet constraint. Consequently, negligible normal operating leakage is expected from cracks within the tubesheet region.

For the SGTR event, the required structural margins of the steam generator tubes is maintained by limiting the allowable ligament size for a circumferential crack to remain in service to 214 degrees below 17 inches from the top of the tubesheet for the 18-month SG tubing eddy current inspection interval and to remain in service 183 degrees below 17 inches from the top of the tubesheet for the 36-month SG tubing eddy current inspection interval. Tube rupture is precluded for cracks in the hydraulic expansion region due to the constraint provided by the tubesheet. The potential for tube pullout is mitigated by limiting the allowable crack size to 214 degrees for the 18-month SG tubing eddy current inspection interval and to 183 degrees for the 18-month SG tubing eddy current inspection interval. These allowable crack sizes take into account eddy current uncertainty and crack growth rate. It has been shown that a circumferential crack with an azimuthal extent of 214 degrees for the 18-month SG tubing eddy current inspection interval and an azimuthal extent of 183 degrees for the 36-month SG tubing eddy current inspection interval meet the performance criteria of NEI [Nuclear Energy Institute] 97–06, Rev. 2, "Steam Generator Program Guidelines" and [NRC] Regulatory Guide (RG) 1.121, "Bases for Plugging Degraded PWR Steam Generator Tubes." Likewise, a visual inspection will be conducted to confirm that a circumferential crack of greater than 294 degrees for the 18-month SG tubing eddy current inspection interval and a circumferential crack of greater than 263 degrees for the 36-month SG tubing eddy current inspection interval do not remain in service in the tube-to-tubesheet weld metal in any tube mitigating the potential for tube pullout. Therefore, the margin against tube burst/pullout is maintained during normal and postulated accident conditions and the proposed change does not result in a significant increase in the probability or consequence of a SGTR.

The probability of a SLB is unaffected by the potential failure of an SG tube as the failure of a tube is not an initiator for an SLB event. SLB leakage is limited by leakage flow restrictions resulting from the leakage path above potential cracks through the tube-to-tubesheet crevice. The leak rate during postulated accident conditions (including locked rotor and control rod ejection) has been shown to remain within the accident analysis assumptions for all axial or circumferentially oriented cracks occurring 17 inches below the top of the tubesheet. Since normal operating leakage is limited to 0.10 gpm (150 gpd), the attendant accident condition leak rate, assuming all leakage to be from indications below 17 inches from the top of the tubesheet would be bounded by 0.25 gpm. This value is within the accident analysis assumptions for the limiting design basis accident for WCGS, which is the postulated SLB event.

Based on the above, the performance criteria of NEI–97–06, Rev. 2 and draft Regulatory Guide (RG) 1.121 continue to be met and the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Does the proposed change create the possibility of a new or different accident from any accident previously evaluated?

Response: No

The proposed change does not introduce any changes or mechanisms that create the possibility of a new or different kind of accident. Tube bundle integrity is expected to be maintained for all plant conditions upon implementation of the interim alternate repair criteria. The proposed change does not introduce any new equipment or any change to existing equipment. No new effects on existing equipment are created nor are any new malfunctions introduced.

Therefore, based on the above evaluation, the proposed 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 change maintains the required structural margins of the steam generator tubes for both normal and accident conditions. NEI 97–06, Rev. 2 and RG 1.121 are used as the basis in the development of the limited tubesheet inspection depth methodology for determining that steam generator tube integrity considerations are maintained within acceptable limits. RG 1.121 describes a method acceptable to the NRC staff for meeting GDC [General Design Criteria, of Appendix A to 10 CFR Part 50], 14, 15, 31, and 32 by reducing the probability and consequences of an SGTR. RG 1.121 concludes that by determining the limiting safe conditions of tube wall degradation beyond which tubes with unacceptable

cracking, as established by inservice inspection, should be removed from service or repaired, the probability and consequences of a SGTR are reduced. This RG uses safety factors on loads for tube burst that are consistent with the requirements of Section III of the ASME Code.

For axially oriented cracking located within the tubesheet, tube burst is precluded due to the presence of the tubesheet. For circumferentially oriented cracking in a tube or the tube-to-tubesheet weld, Reference 6 [Westinghouse Electric Company proprietary report LTR–CDME–08–11–P submitted in the licensee's application] defines a length of remaining tube ligament that provides the necessary resistance to tube pullout due to the pressure induced forces (with applicable safety factors applied). Additionally, it is shown that application of the limited tubesheet inspection depth criteria will not result in unacceptable primary-to-secondary leakage during all plant conditions.

Based on the above, it is concluded that the proposed changes do not result in any reduction of margin with respect to plant safety as defined in the Updated Safety Analysis Report or bases of the plant Technical Specifications.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the person's) may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person's) whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request via electronic submission through the NRC E-filing system for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested person's) should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing

held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for hearing or a petition for leave to intervene must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated on August 28, 2007 (72 FR 49139). The E-Filing process requires participants to submit and serve documents over the internet or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least five (5) days prior to the filing deadline, the petitioner/requestor must contact the Office of the Secretary by e-mail at *hearingdocket@nrc.gov*, or by calling (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html*. Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html*. Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the "Contact Us" link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397–4209 or locally, (301) 415–4737. Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville, Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Time on the due date.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp*, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, Participants are requested not to include copyrighted materials in their submissions.

For further details with respect to this license amendment application, see the letter dated February 8, 2008, from the Wolf Creek Nuclear Operating Corporation, which is available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 14th day of February 2008.

For the Nuclear Regulatory Commission.

Balwant K. Singal,

Senior Project Manager, Plant Licensing Branch IV, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E8–3284 Filed 2–20–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos.: 52–014 and 52–015]

Tennessee Valley Authority; Bellefonte Nuclear Plant, Units 3 and 4; Notice of Intent To Prepare an Environmental Impact Statement and Conduct Scoping Process

The Tennessee Valley Authority (TVA) has submitted an application for combined licenses (COLs) to build units 3 and 4 at its Bellefonte Nuclear Plant

(Bellefonte) site, located on approximately 1600 acres on a peninsula from Tennessee River mile 390 to river mile 393 in Jackson County, Alabama, on the western shore of Guntersville Reservoir, approximately seven miles northeast of Scottsboro, Alabama. The application for the COLs was submitted by TVA by letter dated October 30, 2007, pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) part 52. A notice of receipt of application, including the environmental report (ER), was published in the **Federal Register** on November 27, 2007 (72 FR 66200). A notice of acceptance for docketing of the application for the COL for TVA was published in the **Federal Register** on January 28, 2008 (73 FR 4923). A notice of hearing and opportunity to petition for leave to intervene was published in the **Federal Register** on February 8, 2008 (73 FR 7611–7613). The purpose of this notice is to inform the public that the U.S. Nuclear Regulatory Commission (NRC) will be preparing an environmental impact statement (EIS) in support of the review of the application for the COL and to provide the public with an opportunity to participate in the environmental scoping process as defined in 10 CFR 51.29. In addition, as outlined in 36 CFR 800.8, "Coordination with the National Environmental Policy Act (NEPA)," the NRC plans to coordinate compliance with Section 106 of the National Historic Preservation Act (NHPA), with steps taken to meet the requirements of the National Environmental Policy Act (NEPA) of 1969, as amended. Pursuant to 36 CFR 800.8(c), "Coordination with the National Environmental Policy Act (NEPA) of 1969, as amended, the NRC staff plans to coordinate compliance with Section 106 of the National Historic Preservation Act (NHPA) in lieu of the procedures set forth in 36 CFR 800.3 through 800.6.

In accordance with 10 CFR 51.45 and 51.50, TVA submitted the ER as part of the application. The ER was prepared pursuant to 10 CFR parts 51 and 52 and is available for public inspection at the NRC Public Document Room (PDR) located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, or from the Publicly Available Records component of NRC's Agency-wide Documents Access and Management System (ADAMS). ADAMS is accessible at *http://www.nrc.gov/reading-rm/adams.html,* which provides access through the NRC's Electronic Reading Room link. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR Reference staff at 1–800–397–4209/301–415–4737 or by e-mail to *pdr@nrc.gov*. The application may also be viewed on the Internet at *http://www.nrc.gov/reactors/new-licensing/col/bellefonte.html*. In addition, the Scottsboro Public Library, 1002 South Broad Street, Scottsboro, AL 35768 has agreed to make the ER available for public inspection.

The following key reference documents related to the application and the NRC staff's review processes are available through the NRC's Web site at *http://www.nrc.gov:*

a. 10 CFR part 51, Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions;

b. 10 CFR part 52, Licenses, Certifications, and Approvals for Nuclear Power Plants;

c. 10 CFR part 100, Reactor Site Criteria;

d. NUREG–1555, Standard Review Plans for Environmental Reviews for Nuclear Power Plants;

e. NUREG/BR–0298, Brochure on Nuclear Power Plant Licensing Process;

f. Regulatory Guide 4.2, Preparation of Environmental Reports for Nuclear Power Stations;

g. Regulatory Guide 4.7, General Site Suitability Criteria for Nuclear Power Stations; and

h. Fact Sheet on Nuclear Power Plant Licensing Process.

i. Regulatory 1.206, Combined License Applications for Nuclear Power Plants, and

j. NRR Office Instruction LIC–203, Procedural Guidance for Preparing Environmental Assessments and Considering Environmental Issues.

The regulations, NUREG-series documents, regulatory guides, and fact sheet can be found under Document Collections in the Electronic Reading Room on the NRC Web page.

This notice advises the public that the NRC intends to gather the information necessary to prepare an EIS in support of the review of the application for COLs at the Bellefonte site. Possible alternatives to the proposed action (issuance of the COLs for the Bellefonte site) include no action, reasonable alternative energy sources, and alternate sites. The NRC is required by 10 CFR 52.18 to prepare an EIS in connection with the issuance of COLs. This notice is being published in accordance with NEPA and the NRC's regulations found in 10 CFR part 51.

The NRC will first conduct a scoping process for the COL and, as soon as practicable thereafter, will prepare a draft EIS for public comment. Participation in this scoping process by members of the public, local, State, Tribal, and Federal government agencies is encouraged. The scoping process for the draft EIS will be used to accomplish the following:

a. Define the proposed action that is to be the subject of the EIS;

b. Determine the scope of the EIS and identify the significant issues to be analyzed in depth;

c. Identify and eliminate from detailed study those issues that are peripheral or that are not significant.

d. Identify any environmental assessments and other EISs that are being or will be prepared that are related to but are not part of the scope of the EIS being considered;

e. Identify other environmental review and consultation requirements related to the proposed action;

f. Identify parties consulting with the NRC under the NHPA, as set forth in 36 CFR 800.8 (c) (1) (i);

g. Indicate the relationship between the timing of the preparation of the environmental analyses and the Commission's tentative planning and decision-making schedule;

h. Identify any cooperating agencies and, as appropriate, allocate assignments for preparation and schedules for completing the EIS to the NRC and any cooperating agencies; and

i. Describe how the EIS will be prepared, including any contractor assistance to be used.

The NRC invites the following entities to participate in the scoping process:

a. The applicant;

b. Any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved or that is authorized to develop and enforce relevant environmental standards;

c. Affected State and local government agencies, including those authorized to develop and enforce relevant environmental standards including the State Historic Preservation Officer;

d. Any affected Indian tribe including the Tribal Historic Preservation Officer;

e. The Advisory Council on Historic Preservation;

f. Any person who requests or has requested an opportunity to participate in the scoping process; and

g. Any person who intends to petition for leave to intervene.

In accordance with 10 CFR 51.26, the scoping process for an EIS may include a public scoping meeting to help identify significant issues related to a proposed activity and to determine the scope of issues to be addressed in an EIS. The NRC will hold a public scoping

meeting for the EIS regarding TVA's COL application. The scoping meeting will be held at the Scottsboro Goosepond Civic Center, 1165 Ed Hembree Drive, Scottsboro, AL 35768, on Thursday, April 3, 2008. The meeting will convene at 1:30 p.m. and will continue until 4:30 p.m., and again at 7 p.m. and will continue until 10 p.m., as necessary. The meeting will be transcribed and will include the following: (1) An overview by the NRC staff of the NEPA environmental review process, the proposed scope of the EIS, and the proposed review schedule; (2) the opportunity for interested government agencies, organizations, and individuals to submit comments or suggestions on the environmental issues or the proposed scope of the EIS. Additionally, the NRC staff will host informal discussions for one hour prior to the start of each public meeting. No formal comments on the proposed scope of the EIS will be accepted during the informal discussions. To be considered, comments must be provided either at the transcribed public meeting or in writing, as discussed below. Persons may register to attend or present oral comments at the meeting on the NEPA scoping process by contacting Ms. Mallecia Hood by telephone at 1–800–368–5642, extension 0673 or by e-mail to the NRC at *Bellefonte.COLEIS@nrc.gov*, no later than March 27, 2008. Members of the public may also register to speak at the meeting prior to the start of the session. Individual oral comments may be limited by the time available, depending on the number of persons who register. Members of the public who have not registered may also have an opportunity to speak, if time permits. If special equipment or accommodations are needed to attend or present information at the public meeting, the need should be brought to Ms. Hood's attention no later than March 18, 2008, so that the NRC staff can determine whether the request can be accommodated.

Members of the public may send written comments on the environmental scoping process for the EIS to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mailstop T–6D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Comments may be hand-delivered to the NRC at 11545 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on federal workdays. To be considered in the scoping process, written comments must be postmarked or delivered by April 25, 2008. Electronic comments may be sent by e-mail to the NRC at *Bellefonte.COLEIS@nrc.gov*. Electronic submissions must be sent no later than April 25, 2008, to be considered in the scoping process. Comments will be available electronically and will be accessible through the NRC's Electronic Reading Room link *http://www.nrc.gov/reading-rm/adams.html* at the NRC Homepage.

Participation in the scoping process for the EIS does not entitle participants to become parties to the proceeding to which the EIS relates. Notice of a hearing regarding the application for COLs was the subject of the aforementioned **Federal Register** notice (73 FR 7611).

At the conclusion of the scoping process, the NRC will prepare a concise summary of the determination and conclusions reached regarding submitted comments including the significant issues identified and will send a copy of the summary to each participant in the scoping process. The summary will also be available for inspection through the Electronic Reading Room link. The staff will then prepare and issue for comment the draft EIS, which will be the subject of separate notices and a separate public meeting. Copies will be available for public inspection at the above-mentioned addresses and one copy per request will be provided free of charge. After receipt and consideration of the comments, the NRC will prepare a final EIS, which will also be available for public inspection.

Information about the proposed action, the EIS, and the scoping process may be obtained from Ms. Mallecia Hood at 301–415–0673 or by e-mail at *mah2@nrc.gov*.

Dated at Rockville, Maryland, this 14th day of February, 2008.

For the Nuclear Regulatory Commission.

James E. Lyons,

Director, Division of Site and Environmental Reviews, Office of New Reactors.

[FR Doc. E8–3212 Filed 2–20–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

NRC Regulatory Issue Summary 2007–26, Implementation of Certification of Compliance Amendments to Previously Loaded Spent Fuel Storage Casks (RIS 2007–26)

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting; solicitation of public comments.

SUMMARY: The Nuclear Regulatory Commission (NRC) will host a meeting with the public to receive comments on NRC Regulatory Issue Summary 2007–26, *Implementation of Certification of Compliance Amendments to Previously Loaded Spent Fuel Storage Casks* (RIS 2007–26).

Purpose: To serve as a forum for members of the public to provide oral comments on RIS 2007–26 published for comment in the **Federal Register** on January 14, 2008 (73 FR 2281).

DATES: Friday, February 29, 2008, from 9:30 a.m. to 11:30 a.m.

ADDRESSES: 6003 Executive Boulevard, Rockville, Maryland 20852, Room 1B13.

Meeting Agenda: I. Welcome, Introductions, and Purpose of Meeting (10 minutes); II. Describe RIS 2007–26 and Other Associated NRC Actions (20 minutes); and III. Receive Comments and Address Questions (remaining time).

FOR FURTHER INFORMATION CONTACT: Stewart Brown, e-mail address: swb1@nrc.gov (301), telephone number: (301) 492–3317.

Conduct of the Meeting

This is a Category 3 Meeting. The public is invited to participate in this meeting providing comments and asking questions throughout the meeting. The NRC's Policy Statement, "Enhancing Public Participation on NRC Meetings," effective May 28, 2002, applies to this meeting (67 FR 36920). The policy statement may be found on the NRC Web site, *http://www.nrc.gov*, and contains information regarding visitors and security. The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If a member of the public needs a reasonable accommodation to participate in the meeting, or needs the meeting notice or the transcript or other information from the meeting in another format (*e.g.*, Braille, large print), please notify the NRC's meeting contact. Determinations on requests for reasonable accommodations will be made on a case-by-case basis.

Dated at Rockville, Maryland, this 14th day of February 2008.

For the Nuclear Regulatory Commission.

Stewart W. Brown,

Senior Project Manager, Licensing Branch, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E8–3213 Filed 2–20–08; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57324; File No. SR–BSE–2008–07]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change To List and Trade Options Already Listed on Another National Securities Exchange

February 13, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 28, 2008, the Boston Stock Exchange ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. This order provides notice of the proposal and approves the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend BOX Rule Ch. IV, Sec. 3(b)(v) to enable it to list and trade equity options that are otherwise ineligible for listing and trading on the Exchange if such options are listed and traded on another national securities exchange and the security or securities underlying such options meet BSE's continued listing requirements.

The text of the proposed rule change is available on BSE's Web site (*http://www.bse.com*), at BSE's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The BSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to revise the Exchange's options listing standards so that as long as the options maintenance listing standards as set forth in Ch. IV, Sec. 4 of the BOX Rules are met and the option is listed and traded on another national securities exchange, the Exchange will be able to list and trade the option. Ch. IV, Sec. 3(b) of the BOX Rules sets forth the requirements that an underlying equity security must meet before the Exchange may initially list options on that security. The BSE notes that the requirements that an underlying equity security must meet for initial listing of options on that security are uniform among all the options exchanges.

BOX Rule Ch. IV, Sec. 3(b)(v) applies to the listing of individual equity options on both "covered" and "uncovered" underlying securities, and sets forth the minimum market price at which an underlying security must trade for an option to be listed. In the case of an underlying security that is a "covered security" as defined under section 18(b)(1)(A) of the Securities Act of 1933 ("1933 Act"),[3] the closing market price of the underlying security must be at least $3 per share for five previous consecutive business days prior to the date on which the Exchange submits an option class certification to The Options Clearing Corporation ("OCC"). In connection with underlying securities deemed to be "uncovered," BOX rules require that such underlying security be at least $7.50 for the majority of business days during the three calendar months preceding the date of selection for such listing. In addition, an alternative listing procedure for "uncovered" securities also permits the listing of such options so long as: (1) The underlying security meets the guidelines for continued approval contained in Ch. IV, Sec. 4 of the BOX Rules; (2) options on such underlying security are traded on at least one other registered national securities exchange; and (3) the average daily volume ("ADV") for such options over the last three calendar months preceding the date of selection has been at least 5,000 contracts. Subparagraphs (i) through (iv) of Ch. IV, Sec. 3(b) of the BOX Rules further set forth minimum requirements for an underlying security such as shares outstanding, number of holders and trading volume.

Under this proposed rule change, an option may be multiply-listed and traded as long as one other options exchange is trading the particular option and such underlying security of the option meets the Exchange's continued listing requirements. The BSE notes that the requirements for listing additional series of an existing listed option (*i.e.*, continued listing guidelines) are less stringent, largely because, in total, the Exchange's guidelines assure that options will be listed and traded on securities of companies that are financially sound and subject to adequate minimum standards.

The Exchange believes that although the continued listing requirements are uniform among the other options exchanges, the application of both the original and continued listing standard in the current market environment have had an anti-competitive effect. Specifically, the Exchange notes that on several occasions it has been unable to list and trade options classes that trade elsewhere because the underlying security of such option did not at that time meet original listing standards. However, the other options exchange(s) may continue to trade such options (and list additional series) based on the lower maintenance listing standards, while the Exchange is precluded from listing any options on such underlying security. The Exchange believes this is anti-competitive and inconsistent with the aims and goals of a national market system in options.

To address this situation, the Exchange proposes to add a new rule to the BOX Rules and to amend the current listing requirements. Specifically, the proposed addition of Ch. IV, Sec. 3(b)(vi) of the BOX Rules provides that notwithstanding that a particular underlying security may not meet the requirements set forth in Ch. IV, Sec. 3(b)(i), (ii), (iv) and (v), the Exchange nonetheless could list and trade an option on such underlying security if (i) the underlying security meets continued listing requirements under Ch. IV, Sec. 4 of the BOX Rules; and (ii) options on such underlying security are listed and traded on at least one other registered national securities exchange.[4] In

[3] Section 18(b)(1)(A) of the 1933 Act provides that "[a] security is a covered security if such security is* * *listed, or authorized for listing, on the New York Stock Exchange or the American Stock Exchange, or listed or authorized for listing on the National Market System of the Nasdaq Stock Market (or any successor to such entities)* * *" *See*, 15 U.S.C. 77r(b)(1)(A).

[4] Telephone conversation between John Katovich, Executive Vice President and Chief Legal Officer, BSE and Mitra Mehr, Special Counsel, Division of Trading and Markets, Commission on February 12,

Continued

connection with the proposed changes, the Exchange represents that the procedures currently employed to determine whether a particular underlying security meets the initial listing criteria will similarly be applied to the continued listing criteria.

The Exchange believes that this proposal is narrowly tailored to address the circumstances where an options class is currently ineligible for listing on the Exchange while at the same time, such option is trading on another options exchange(s). The BSE notes that when an underlying security meets the maintenance listing requirements and at least one other exchange lists and trades options on the underlying security, the option is available to the investing public. Therefore, the Exchange notes that the current proposal will not introduce any inappropriate additional listed options classes. The BSE submits that the adoption of the proposal is essential for competitive purposes and to promote a free and open market for the benefit of investors.

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)(5) of the Act,[6] in particular, in that it will serve to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–BSE–2008–07 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–BSE–2008–07. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of 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–2008–07 and should be submitted on or before March 13, 2008.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the regulations thereunder applicable to a national securities exchange.[7] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[8] which requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposal is narrowly tailored to address the circumstances where an equity option class is currently ineligible for initial listing on the Exchange even though it meets the Exchange's continued listing standards and is trading on another options exchange. Allowing BSE to list and trade options on such underlying securities should help promote competition among the exchanges that list and trade options. The Commission notes, and the Exchange represents, that the procedures that the Exchange currently employs to determine whether a particular underlying security meets the initial equity option listing criteria for the Exchange will similarly be applied when determining whether an underlying security meets the Exchange's continued listing criteria.

The Commission finds good cause, pursuant to Section 19(b)(2)(B) of the Act,[9] for approving the proposed rule change prior to the 30th day after the publication of the notice of the filing thereof in the **Federal Register**. The Commission notes that the proposed rule change is substantially identical to a proposed rule change submitted by the American Stock Exchange LLC,[10] which was previously approved by the Commission after an opportunity for notice and comment, and therefore does not raise any new regulatory issues.

2008 to conform this sentence to the text of the proposed rule change.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(2)(B).

[10] *See*, Securities Exchange Act Release No. 56598 (October 2, 2007), 72 FR 57615 (October 10, 2007) (SR–Amex–2007–48) (Order Approving Proposed Rule Change Modifying the Options Listing Criteria for Underlying Securities). *See also*, Securities Exchange Act Release Nos. 56647 (October 11, 2007), 72 FR 58702 (October 16, 2007) (SR–ISE–2007–80) (Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change); 56774 (November 8, 2007), 72 FR 64694 (November 16, 2007) (SR–CBOE–2007–114) (Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change); 56797 (November 15, 2007), 72 FR 65798 (November 23, 2007) (SR–NYSEArca–2007–106) (Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change); and 56717 (October 29, 2007), 72 FR 62508 (November 5, 2007) (SR–Phlx–2007–73) (Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change).

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR–BSE–2008–07) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–3167 Filed 2–20–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57326; File No. SR–CBOE–2008–03]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change Relating to Complex Orders

Feburary 13, 2008.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 14, 2008, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I, II, and III below, which Items have been prepared substantially by CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules regarding complex orders. The text of the proposed rule change is available at CBOE, the Commission's Public Reference Room, and *http://www.cboe.com/legal.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE 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. CBOE 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 is proposing to amend its priority provisions contained in CBOE Rules 6.45, 6.45A and 6.45B to provide that a complex order may be executed at a net debit or credit price with another member without giving priority to equivalent bids (offers) in the individual series legs that are represented in the public customer limit order book, provided that one leg of the complex order betters the corresponding bid (offer) in the public customer limit order book by at least the amount determined by the Exchange on a class-by-class basis. The amount shall be either (i) one minimum trading increment (*i.e.*, $0.10, $0.05 or $0.01, as applicable) or (ii) a $0.01 increment.[3]

Currently the rules provide that one leg of a complex order must better the corresponding bid (offer) in the public customer limit order book by at least one minimum trading increment.[4] The Exchange believes that changing the rule to permit the minimum amount to be $0.01 would provide additional flexibility to better facilitate the orderly execution of complex orders, and would provide additional opportunities and incentives for members to provide price improvement to complex orders.[5]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b) of the Act,[6] in general, and furthers the objectives of section 6(b)(5) of the Act,[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, protect investors and the public interest.

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 not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which CBOE consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2008–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission,

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[11] *Id.*

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Additionally, the Exchange is proposing to make two non-substantive changes to Rule 6.45B(b) in order to conform the text of that rule to Rule 6.45A(b). Specifically, the Exchange is replacing the phrase "the trading crowd" with the phrase "open outcry" in Rule 6.45B(b) and inserting the phrase "at a net debit or credit price" in Rule 6.45B(b)(ii).

[4] The rules also provide that a complex order may be executed at the same derived net price as other individual series legs represented in the trading crowd, which for purposes of the complex order priority provision includes broker-dealer orders resting in the electronic book and electronic quotes of Market-Makers.

[5] Currently, for example, if a complex order spread market is quoted on a net debit/credit basis at $0.90 to $1.10 and there are orders represented in the public customer limit order book in the individual series at each of the respective prices, the complex order may only be executed with another member at a net price of $0.95 to $1.05. Under the proposed revisions, a complex order may be executed at a net price of $0.91 to $1.09, permitting price improvement at net prices ranging from $0.91–$0.94 and $1.06–$1.09.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2008–03. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of 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–2008–03 and should be submitted on or before March 13, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–3197 Filed 2–20–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57332; File No. SR–CBOE–2008–08]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change Regarding CBOE Rules 6.45A and 6.45B

February 14, 2008.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 6, 2008, the Chicago Board Options Exchange, Incorporated ("CBOE" or the "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 comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules regarding the application of participation entitlements to orders executed electronically on the CBOE Hybrid Trading System ("Hybrid system"). The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.org/Legal*) at the CBOE's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CBOE Rules 6.45A and 6.45B govern priority and allocation of trades on the Hybrid system for equity options and index/ETF options, respectively. Paragraph (a) of both rules sets forth the manner in which incoming electronic orders are allocated (the rules are substantially similar). Within paragraph (a) there is a "menu" of matching/priority possibilities that allows for greater customization in creating an allocation structure for option classes trading on the Hybrid system. Essentially, the first step is to select a base matching algorithm. The choices are price-time priority (in which allocations are based on the time of receipt of order/quotes at the best price), pro-rata priority (in which allocations are based on the size of the quotes/orders at the best price), or CBOE's Ultimate Matching Algorithm (which takes into account the number of participants quoting at the NBBO and the size of those quotes and orders). After a base matching algorithm is selected, the Exchange may utilize optional priority overlays that would be applied on a trade before the matching algorithm was used to allocate an order. The optional priority overlays may be applied in any sequence determined by the appropriate Procedure Committee (subject to certain restrictions set forth in the Rules). The overlays are public customer priority (self-explanatory), market turner priority (in which priority goes to the participant that turned/improved the market to that price point), and a Market-Maker participation entitlement (in which Market-Makers and/or Designated Primary Market-Makers ("DPMs"), e-DPMs, and Lead Market-Makers ("LMMs") receive special allocations up to certain percentage maximums).

Currently, participation entitlements may be established for Hybrid electronic executions pursuant to different Exchange rules. More specifically, CBOE Rule 8.13 allows for the establishment of a participation entitlement for Preferred Market-Makers (in which an order sender may designate a "preferred" Market-Maker for an order and if that Market-Maker is quoting at the Exchange's best bid/offer at the time the order is received, it will receive the designated participation entitlement). CBOE Rule 8.87 allows for a designated participation entitlement applicable to the DPM in the class (or the DPM and the e-DPMs combined, if there are e-DPMs in the class), if the DPM is quoting at the Exchange best bid/offer at the time the order is received. CBOE Rule 8.15B is virtually identical to Rule 8.87 except that it applies to LMMs.

This proposed rule change proposes to allow for more than one participation entitlement to be activated for an option class (for purposes of electronic trading on the Hybrid system under Rules 6.45A and 6.45B), including in different priority sequences, provided that no more than one entitlement could be applied on any given trade. Thus, the Exchange could set up an allocation structure that contemplates using both the Preferred Market-Maker entitlement and the DPM or LMM entitlement (DPMs and LMMs cannot be assigned to the same class) with different priority positions. For example, a class could be designated as a pro-rata class with the

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

following priority overlays (in order): (1) Public customer; (2) Preferred Market-Maker entitlement; (3) Market Turner; and (4) DPM entitlement. If an order was received by the Hybrid system while this allocation structure was in place, public customer orders would trade first, the Preferred Market-Maker would trade second, the Market Turner would trade third, the DPM (DPM Complex) would trade fourth, if the Preferred Market-Maker was not present at the best price, and any remaining balance would trade using pro-rata.

The Exchange believes that adding this flexibility to its matching rules will allow for greater customization, resulting in enhanced service to its customers and users.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b) of the Act [3] in general, and furthers the objectives of section 6(b)(5) of the Act [4] in particular, because: (i) The filing allows the Exchange to further customize the Hybrid matching algorithm in connection with customer preference without increasing the participation entitlement percentages applicable to option trading, which serves to remove impediments to and perfect the mechanism of a free and open market; and (ii) the filing proposes continued use of a purely objective method for allocating option trades which promotes just and equitable principles of trade.

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 not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which CBOE consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2008–08 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–2008–08. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal offices 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–CBOE–2008–08 and should be submitted on or before March 13, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–3198 Filed 2–20–08; 8:45 am]

BILLING CODE 8011–01–P

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 6104]

Presidential Determination Concerning Waiver of Section 1083 of the National Defense Authorization Act for Fiscal Year 2008 With Respect to Iraq

SUMMARY: On January 28, 2008, the President issued Presidential Determination 2008–9. Presidential Determination 2008–9 waives the application of all provisions of section 1083 of the National Defense Authorization Act for Fiscal Year 2008 (NDAA) with respect to Iraq. Section 1083 amends the Foreign Sovereign Immunities Act, which establishes a framework for lawsuits against foreign countries and their agencies and instrumentalities under U.S. law. Pursuant to section 1083(d)(1) the President may waive any provision of this section with respect to Iraq, insofar as that provision may, in the President's determination, affect Iraq or any agency or instrumentality thereof, if the President determines that the waiver is in the national security interest of the United States; the waiver will promote the reconstruction of, the consolidation of democracy in, and the relations of the United States with, Iraq; and Iraq continues to be a reliable ally of the United States and partner in combating acts of international terrorism. Pursuant to section 1083(d)(3), a waiver by the President under section 1083(d)(1) shall cease to be effective 30 days after it is made unless the President has notified Congress in writing of the basis for the waiver as determined by the President under section 1083(d)(1). Presidential Determination 2008–9 directs the Department of State to notify Congress of the President's determination and waiver and the accompanying memorandum of justification. On February 4, 2008, the Department of State transmitted to Congress Presidential Determination 2008–9 and the accompanying memorandum of justification.

SUPPLEMENTARY INFORMATION: The text of Presidential Determination 2008–09 and

accompanying Memorandum of Justification, as transmitted to Congress on February 4, 2008, can be found at 73 FR 6571 (February 5, 2008).

Dated: February 14, 2008.

Richard Schmierer,

Acting Deputy Assistant Secretary, Department of State.

[FR Doc. E8–3248 Filed 2–20–08; 8:45 am]

BILLING CODE 4710–31–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2007–0106]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before March 13, 2008.

ADDRESSES: You may send comments identified by Docket Number FAA–2008–0104 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Susan Boylon (425–227–1152), Transport Standards Staff, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057–3356, or Frances Shaver (202) 267–9681, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on February 14, 2008.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2007–0106.
Petitioner: Cessna Aircraft Company.
Section of 14 CFR Affected: 23.855(c)(2).
Description of Relief Sought: Petitioner requests relief from the requirements of 14 CFR part 23, § 23.855(c)(2) for a smoke or fire detector in the baggage compartment of the Cessna Model 525B aircraft. If granted, the petitioner would be allowed to obtain a type certificate for the Cessna 525B without a fire or smoke detector in the forward or aft baggage compartments.

[FR Doc. E8–3208 Filed 2–20–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Assessment: Milwaukee County, WI

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent to prepare an Environmental Assessment.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Assessment will be prepared for a proposed interchange project in Milwaukee County, Wisconsin by the Wisconsin Department of Transportation (WisDOT).

FOR FURTHER INFORMATION CONTACT: David Scott, FHWA, Suite 8000 525 Junction Road, Madison, WI 53717; Telephone: (608) 829–7522.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration (FHWA), in cooperation with the Wisconsin Department of Transportation (WisDOT), will prepare an Environmental Assessment on a proposal to improve the Zoo Interchange (I–94 and I–894/US 45 interchange) and adjacent interchanges in Milwaukee County, WI; a distance of approximately 7 miles. This freeway interchange has emerging pavement and structural needs, safety issues and design deficiencies. The proposed project may require full reconstruction and redesign of the Zoo Interchange as well as interchanges within the project limits of US 45 and Center Street on the north, I–94 at 116th on the west, I–94 and 76th Street on the east and I–894/US 45 at Union Pacific Railroad south of Greenfield Avenue on the south. The Environmental Assessment will evaluate the Zoo Interchange, I–94 and US 45 freeway mainline for the entire corridor as well as the service interchanges in Milwaukee County. Those service interchanges include US 45 and North Avenue, US 45 and Swan Boulevard/Watertown Plank Road, US 45 and Wisconsin Avenue/Bluemound Road, US 45/I–894 and Greenfield Avenue, I–94 and STH 100/108th Street, and I–94 and 84th Street interchanges.

The proposed Zoo Interchange project is intended to make necessary safety improvements and to accommodate existing and projected future traffic volumes through the interchange.

Public involvement will be solicited throughout this process including involvement from minority and low-income populations in the project study area to ensure that the construction of the corridor does not create disproportionately high and adverse environmental and health impacts to these communities. Public workshops and a series of public information meetings will be held during the project study. Public notice will be given as to the time and place of all workshops and public information meetings. In addition, a public hearing will be held after the Environmental Assessment has been prepared. A Zoo Interchange project study email address and a public website will be maintained throughout

the study for public comment and information at *http://www.sefreeways.org*. To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action and the Environmental Assessment should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: February 13, 2008.

David J. Scott,

Southeast Freeways Coordinator, Federal Highway Administration, Madison, Wisconsin.

[FR Doc. E8–3196 Filed 2–20–08; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Albuquerque, NM

AGENCY: Federal Highway Administration (FHWA), USDOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public and other agencies that an environmental impact statement will be prepared for a proposed transportation project in Albuquerque, NM.

FOR FURTHER INFORMATION CONTACT: Nicholas Finch, District Engineer, Federal Highway Administration, New Mexico Division, 4001 Office Court Drive, Suite 801, Santa Fe, New Mexico 87507, Telephone (505) 820–2039; or, Paul Lindberg, Project Development Engineer, New Mexico Department of Transportation, 7500 Pan American Freeway NE., Albuquerque, New Mexico 87109, Telephone (505) 841–2737.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New Mexico Department of Transportation (NMDOT), will prepare an environmental impact statement (EIS) for proposed improvements to the Interstate 25 (I–25) and Paseo del Norte Interchange in Albuquerque, New Mexico. The proposed improvements would involve the reconstruction of the interchange and the adjoining portions of I–25 from San Mateo Boulevard to Alameda Boulevard and Paseo del Norte from San Pedro Drive to 2nd Street. The proposed improvements include approximately 2 miles of I–25 and 2 miles of Paseo del Norte.

The proposed improvements are considered necessary to: Provide for existing and future traffic demand; reduce congestion; improve local circulation; and, improve regional mobility. Alternatives under consideration include: (1) Taking no action; (2) reconstructing the existing traffic interchange as a system interchange using an echelon configuration in the interchange core with two directional ramps; and, (3) reconstructing the existing traffic interchange as a system interchange using four directional ramps. Both build alternatives include the addition of a general purpose lane in each direction of travel on I–25, auxiliary lanes where needed on I–25, modifications to freeway entrance and exit ramps at San Mateo Boulevard, San Antonio Boulevard, and Alameda Boulevard, reconstruction of the existing at-grade intersection of Paseo del Norte and Jefferson Street as a grade separated intersection, and construction of a new 1.25 mile section of arterial roadway parallel to Paseo del Norte from I–25 to the AMAFCA Diversion Channel.

Letters describing the proposed action and requesting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and individuals who have previously expressed, or are known to have an interest, in the proposed action. A scoping meeting will be held with appropriate agencies in late February 2008. Agencies will be notified of the scoping meeting by letter.

Planning and preliminary design activities for the proposed improvements have been underway since 2006. During that time, four public meetings and approximately fifty meetings with individual business, property owners, and interested groups were held, including two public meetings held in December 2007. Because extensive public involvement and scoping have already been conducted, a specific schedule for additional public scoping meetings has not been set. Additional meetings with the public, individual property and business owners, and others will be conducted as needed and as new information is developed. A notice of intent to prepare an EIS will be published in local newspapers in February 2008. The local notice will describe the proposed action and the intent of FHWA and NMDOT to prepare an environmental impact statement. It will also request comments from the public on issues of interest and concern and on alternatives to be considered.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues are identified, comments, suggestions, and questions are invited from all interested parties. Comments, questions, and suggestions about the proposed action and the EIS should be sent to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on February 9, 2008.

J. Don Martinez,

Division Administrator, Federal Highway Administration, Santa Fe, New Mexico.

[FR Doc. E8–3195 Filed 2–20–08; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0622]

Agency Information Collection (Buy American Act) Under OMB Review

AGENCY: Office of Management, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Office of Management (OM), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 24, 2008.

ADDRESSES: Submit written comments on the collection of information through *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. 2900–0622" in any correspondence.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW.,

Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail: *denise.mclamb@mail.va.gov*. Please refer to "OMB Control No. 2900–0622."

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OM invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OM's functions, including whether the information will have practical utility; (2) the accuracy of OM's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Department of Veterans Affairs Acquisition Regulation (VAAR) Clause 852.236–89, Buy American Act.

OMB Control Number: 2900–0622.

Type of Review: Extension of a currently approved collection.

Abstract: The Buy American Act requires that only domestic construction material shall be used to perform domestic Federal contracts for construction, with certain exceptions. Despite the allowable exceptions, it is VA policy not to accept foreign construction material. VAAR clause 852.236–89 advises bidders of these provisions and requires bidders who choose to submit a bid that includes foreign construction material to identify and list the price of such material. VA uses the information to determine whether to accept or not accept a bid that includes foreign construction material.

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 December 6, 2007, at pages 68961–68962.

Affected Public: Business or other for-profit institutions; individuals and households; and not-for-profit institutions.

Estimated Annual Burden: 20 hours.

Estimated Average Burden per Respondent: 30 min.

Frequency of Response: On occasion.

Estimated Number of Respondents: 40.

Dated: February 12, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–3234 Filed 2–20–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0408]

Proposed Information Collection (Manufactured Home Loan Claim) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine claim payment due to holders of foreclosed VA guaranteed manufactured home unit and combination loans.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before April 21, 2008.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov*. Please refer to "OMB Control No. 2900–0408" in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles:

a. Manufactured Home Loan Claim Loan Guaranty (Manufactured Home Unit Only), (Section 3720, Chapter 37, Title 38 U.S.C.), VA Form 26–8629.

b. Manufactured Home Loan Claim Under Loan Guaranty (Manufactured Home Unit and Lot or Lot Only), (Section 3712, Chapter 37, Title 38 U.S.C.), VA Form 26–8630.

OMB Control Number: 2900–0408.

Type of Review: Extension of a currently approved collection.

Abstract: Holders of foreclosed VA guaranteed manufactured home unit and guaranteed combination manufactured home complete VA Forms 26–8629 and 26–8630 as a prerequisite payment of claims. The holder record accrued interest, various expenses of liquidation and claim balance on the forms to determine the amount claimed and submit with supporting documentation to VA. VA uses the data to determine the proper claim payment due to the holder.

Affected Public: Business or other for-profit and Individuals or households.

Estimated Annual Burden:

a. Manufactured Home Loan Claim Loan Guaranty (Manufactured Home Unit Only), (Section 3720, Chapter 37, Title 38 U.S.C.), VA Form 26–8629—33 hours.

b. Manufactured Home Loan Claim Under Loan Guaranty (Manufactured Home Unit and Lot or Lot Only), (Section 3712, Chapter 37, Title 38 U.S.C.), VA Form 26–8630—3 hours.

Estimated Average Burden per Respondent:

a. Manufactured Home Loan Claim Loan Guaranty (Manufactured Home Unit Only), (Section 3720, Chapter 37, Title 38 U.S.C.), VA Form 26–8629—20 minutes.

b. Manufactured Home Loan Claim Under Loan Guaranty (Manufactured Home Unit and Lot or Lot Only), (Section 3712, Chapter 37, Title 38 U.S.C.), VA Form 26–8630—20 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents:

a. Manufactured Home Loan Claim Loan Guaranty (Manufactured Home Unit Only), (Section 3720, Chapter 37, Title 38 U.S.C.), VA Form 26–8629—100.

b. Manufactured Home Loan Claim Under Loan Guaranty (Manufactured Home Unit and Lot or Lot Only), (Section 3712, Chapter 37, Title 38 U.S.C.), VA Form 26–8630—10.

Dated: February 12, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Services.

[FR Doc. E8–3235 Filed 2–20–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0590]

Agency Information Collection (VAAR Clauses 852.237–7, 852.237–71 and 852.207–70) Under OMB Review

AGENCY: Office of Management, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Office of Management (OM), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 24, 2008.

ADDRESSES: Submit written comments on the collection of information through *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. 2900–0590" in any correspondence.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to "OMB Control No. 2900–0590."

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OM invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OM's functions, including whether the information will have practical utility; (2) the accuracy of OM's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles:

a. Veterans Affairs Acquisition Regulation Clauses 852.237–7, Indemnification and Medical Liability Insurance.

b. Veterans Affairs Acquisition Regulation Clauses 852.237–71, Indemnification and Insurance.

c. Veterans Affairs Acquisition Regulation Clauses 852.207–70, Report of Employment Under Commercial Activities.

OMB Control Number: 2900–0590.

Type of Review: Extension of a currently approved collection.

Abstracts:

a. VA Acquisition Regulation Clauses 852.237–7 is used in solicitations and contracts for the acquisition of non-personal health care services. It requires the bidder/offeror prior to contract award to furnish evidence of insurability of the offeror and/or all healthcare providers who will perform under the contract. The information provided is used to ensure that VA will not be held liable for any negligent acts of the contractor or it employees and that VA and VA beneficiaries are protected by adequate insurance coverage.

b. Clause 852.237–71 is used in solicitations for vehicle or aircraft services. It requires the bidder/offeror prior to contract award to furnish evidence that the firm possesses the types and amounts of insurance required by the solicitation. The information is necessary to ensure that VA beneficiaries and the public are protected by adequate insurance coverage.

c. Clause 852.207–70, is used in solicitations for commercial items and services where the work is currently being performed by VA employees and where those employees might be displaced as a result of an award to a commercial firms. The clause requires the contractor to report the names of the affected Federal employees offered employment opening and the names of employees who applied for but not offered employment and the reasons for withholding offers to those employees.

The information collected is used by contracting officers to monitor and ensure compliance by the contractor under the requirements of Federal Acquisition Regulation clause 52.207–3, Right of First Refusal of Employment.

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 December 6, 2007, at pages 68962–68963.

Affected Public: Business or other for-profit; individuals and households; not-for-profit institutions, and State, Local or Tribal Government.

Estimated Annual Burden:

a. Veterans Affairs Acquisition Regulation Clauses 852.237–7, Indemnification and Medical Liability Insurance—750 hours

b. Veterans Affairs Acquisition Regulation Clauses 852.237–71, Indemnification and Insurance—250 hours.

c. Veterans Affairs Acquisition Regulation Clauses 852.207–70, Report of Employment Under Commercial Activities—15 hours.

Estimated Average Burden per Respondent: 30 minutes.

a. Veterans Affairs Acquisition Regulation Clauses 852.237–7, Indemnification and Medical Liability Insurance—30 minutes.

b. Veterans Affairs Acquisition Regulation Clauses 852.237–71, Indemnification and Insurance—30 minutes.

c. Veterans Affairs Acquisition Regulation Clauses 852.207–70, Report of Employment Under Commercial Activities—30 minutes.

Frequency of Response: On occasion.
Estimated Number of Respondents: 2,030.

a. Veterans Affairs Acquisition Regulation Clauses 852.237–7, Indemnification and Medical Liability Insurance—1,500.

b. Veterans Affairs Acquisition Regulation Clauses 852.237–71, Indemnification and Insurance—500.

c. Veterans Affairs Acquisition Regulation Clauses 852.207–70, Report of Employment Under Commercial Activities—30.

Dated: February 12, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–3237 Filed 2–20–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0418]

Agency Information Collection (VAAR Sections 809.106–1, 809.504(d), and Clause 852.209–70) Under OMB Review

AGENCY: Office of Management, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Office of Management (OM), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 24, 2008.

ADDRESSES: Submit written comments on the collection of information through *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. 2900–0418" in any correspondence.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to "OMB Control No. 2900–0418."

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OM invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OM's functions, including whether the information will have practical utility; (2) the accuracy of OM's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Department of Veterans Affairs Acquisition Regulation (VAAR) Sections 809.106–1, 809.504(d), and Clause 852.209–70.

OMB Control Number: 2900–0418.

Type of Review: Extension of a currently approved collection.

Abstract:

a. VAAR section 809.106–1 requires VA to contact a firm being considered for a contract award for bakery, dairy, or ice cream products or for laundry or dry cleaning services whether or not the firm's facility has recently been inspected by another Federal agency and, if so, which agency. The information is used to determine whether a separate inspection of the facility should be conducted by VA prior to award contract.

b. VAAR section 809.504(d) and Clause 852.209–70 requires VA to determine whether or not to award a contract to a firm that might involve or result in a conflict of interest. VA uses the information to determine whether additional contract terms and conditions are necessary to mitigate the conflict.

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 December 6, 2007, at page 68961.

Affected Public: Business or other for-profit; individuals and households; and not-for-profit institutions.

Estimated Annual Burden:

a. VAAR section 809.106–1—30 hours.

b. VAAR section 809.504(d) and VAAR clause 852.209–7—500 hours.

Estimated Average Burden per Respondent:

a. VAAR section 809.106–1—3 minutes.

b. VAAR section 809.504(d) and Clause 852.209–7—30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents:

a. VAAR section 809.106–1—600.

b. VAAR section 809.504(d) and Clause 852.209–7—1,000.

Dated: February 12, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–3238 Filed 2–20–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0394]

Agency Information Collection Activities (Certification of School Attendance—REPS) Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 24, 2008.

ADDRESSES: Submit written comments on the collection of information through *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. 2900–0394" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–

7485, FAX (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov*. Please refer to "OMB Control No. 2900–0394."

SUPPLEMENTARY INFORMATION:

Title: Certification of School Attendance—REPS, VA Form 21–8926.

OMB Control Number: 2900–0394.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–8926 is used to verify beneficiaries receiving Restored Entitlement Program for Survivors (REPS) benefits based on schoolchild status are in fact enrolled full-time in an approved school and is otherwise eligible for continued benefits. The program pays benefits to certain surviving spouses and children of veterans who died in service prior to August 13, 1981 or who died as a result of a service-connected disability incurred or aggravated prior to August 13, 1981. Beneficiaries over age 18 and under age 23 must be enrolled full-time in an approved post-secondary school at the beginning of the school year to continue receiving REPS benefits.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on October 1, 2007, at page 55858.

Affected Public: Individuals or households.

Estimated Annual Burden: 300 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 1,200.

Dated: February 12, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–3239 Filed 2–20–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0658]

Agency Information Collection Activities (LAPP Certification) Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 24, 2008.

ADDRESSES: Submit written comments on the collection of information through *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. 2900–0658" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov*. Please refer to "OMB Control No. 2900–0658."

SUPPLEMENTARY INFORMATION:

Title: Lender Appraisal Processing Program Certification, VA Form 26–0785.

OMB Control Number: 2900–0658.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–0785 is completed by lenders to nominate employees for approval as approved Staff Appraisal Reviewer (SAR). Once approved, SAR's will have the authority to review real estate appraisals and to issue notices of values on behalf of VA. VA uses the information colleted to perform oversight of work delegated to lenders responsible for making guaranteed VA backed loans.

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 December 6, 2007, at page 68964.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 83 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,000.

Dated: February 13, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–3240 Filed 2–20–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0668]

Proposed Information Collection (Philippine Claims Only) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine Philippine claimants' eligibility for pension benefits. .

DATES: Written comments and recommendations on the proposed collection of information should be received on or before April 21, 2008.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov*. Please refer to "OMB Control No. 2900–0668" in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is

being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Supplemental Income Questionnaire (For Philippine Claims Only), VA Form 21–0784.

OMB Control Number: 2900–0668.

Type of Review: Extension of a currently approved collection.

Abstract: Philippine claimants residing in the Philippine complete VA Form 21–0784 to report their countable family income and net worth. VA uses the information to determine the claimant's entitlement to pension benefits.

Affected Public: Individuals or households.

Estimated Annual Burden: 30 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 120.

Dated: February 13, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–3241 Filed 2–20–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0613]

Proposed Information Collection (Recordkeeping at Flight Schools) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to this notice. This notice solicits comments on the information needed to determine if courses offered by a flight school should be approved.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before April 21, 2008.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov*. Please refer to "OMB Control No. 2900–0613" in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Recordkeeping at Flight Schools (38 U.S.C. 21.4263 (h)(3).

OMB Control Number: 2900–0613.

Type of Review: Extension of a previously approved collection.

Abstract: Flight schools are required to maintain records on students to support continued approval of their courses. VA uses the data collected to determine whether the courses and students meet the requirements for flight training benefits and to properly pay students.

Affected Public: Business or other for-profit institutions, not-for-profit institutions, and Federal Government.

Estimated Annual Burden: 427 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 320.

Estimated Annual Responses: 1,280.

Dated: February 12, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Services.

[FR Doc. E8–3242 Filed 2–20–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-New (LGY Surveys)]

Agency Information Collection Activities (LGY Surveys) 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, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 24, 2008.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*; or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to "OMB Control No. 2900-New (LGY Surveys)" in any correspondence.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Records Management Service

(005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail: *denise.mclamb@mail.va.gov*. Please refer to "OMB Control No. 2900-New (LGY Surveys)."

SUPPLEMENTARY INFORMATION:

Titles:

a. Survey of Veterans Satisfaction with the VA Home Loan Guaranty Process.

b. Loan Guaranty Service, Lender Survey.

c. VA Specially Adapted Housing Program Survey.

d. VA Specially Adapted Housing Program Survey: Eligible Non-Grantee Survey.

OMB Control Number: 2900-New (LGY Surveys).

Type of Review: New collection.

Abstract: The surveys will be used to gather information from veterans and lenders about the VA Loan Guaranty Program. The information collected will allow the VA to determine customer satisfaction with the VA's processes and to make improvements so that the program best serves the needs of eligible veterans. Additionally, VA will use the information collected from eligible users and non-users of the Specially Adapted Housing Grant Program to determine the satisfaction of grant recipients and understand the reasons why certain eligible veterans have not used this benefit.

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 December 12, 2007, at pages 70643–70644.

Affected Public: Individuals or households.

Estimated Annual Burden:

a. Survey of Veterans Satisfaction with the VA Home Loan Guaranty Process—1,688 hours.

b. Loan Guaranty Service, Lender Survey—250 hours.

c. VA Specially Adapted Housing Program Survey—100 hours.

d. VA Specially Adapted Housing Program Survey: Eligible Non-Grantee Survey—58 hours.

Estimated Average Burden per Respondent:

a. Survey of Veterans Satisfaction with the VA Home Loan Guaranty Process—15 minutes.

b. Loan Guaranty Service, Lender Survey—15 minutes.

c. VA Specially Adapted Housing Program Survey—15 minutes.

d. VA Specially Adapted Housing Program Survey: Eligible Non-Grantee Survey—5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents:

a. Survey of Veterans Satisfaction with the VA Home Loan Guaranty Process—6,750.

b. Loan Guaranty Service, Lender Survey—1,000.

c. VA Specially Adapted Housing Program Survey—400.

d. VA Specially Adapted Housing Program Survey: Eligible Non-Grantee Survey—700.

Dated: February 12, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–3243 Filed 2–20–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0660]

Agency Information Collection Activities (Request for Contact Information) Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATE: Comments must be submitted on or before March 24, 2008.

ADDRESSES: Submit written comments on the collection of information through *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. 2900–0660" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov*. Please refer to "OMB Control No. 2900–0660."

SUPPLEMENTARY INFORMATION:

Title: Request for Contact Information, VA Form 21–30.

OMB Control Number: 2900–0660.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–30 is used to locate individuals when contact information cannot be obtained by other means or when travel funds may be significantly impacted in cases where the individual resides in a remote location and is not home during the day or when visited. VA uses the data collected to determine whether a fiduciary of a beneficiary is properly executing his or her duties.

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 October 1, 2007, at pages 55858–55859.

Estimated Annual Burden: 1,250 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 5,000.

Dated: February 12, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–3244 Filed 2–20–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0114]

Agency Information Collection Activities (Statement of Marital Relationship) Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the

nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATE: Comments must be submitted on or before March 24, 2008.

ADDRESSES: Submit written comments on the collection of information through *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. 2900–0114" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov*. Please refer to "OMB Control No. 2900–0114."

SUPPLEMENTARY INFORMATION:

Title: Statement of Marital Relationship, VA Form 21–4170.

OMB Control Number: 2900–0114.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–4170 is completed by individuals claiming to be common law widows/widowers of deceased veterans and by veterans and their claimed common law spouses to establish marital status. VA uses the information collected to determine whether a common law marriage was valid under the law of the place where the parties resided at the time of the marriage or under the law of the place where the parties resided when the right to benefits accrued.

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 October 1, 2007, at page 55861.

Affected Public: Individuals or households.

Estimated Annual Burden: 2,708 hours.

Estimated Average Burden per Respondent: 25 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 6,500.

Dated: February 12, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–3245 Filed 2–20–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

National Research Advisory Council; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the National Research Advisory Council will hold a meeting on Monday, April 14, 2008 in Room 900 at the Greenhoot Cohen Building, 1722 Eye Street, NW., Washington, DC. The meeting will convene at 8:30 a.m. and end at 1 p.m. The meeting is open to the public.

The purpose of the Council is to provide external advice and review for VA's research mission. The April 14 meeting agenda will include a review of the VA research portfolio. The Council will also provide feedback on the direction/focus of VA's research initiatives.

Any member of the public who expects to attend the meeting or wants additional information should contact Jay A Freedman, PhD, Designated Federal Officer, at (202) 254–0267. Oral comments from the public will not be accepted at the meeting. Written statement or comments should be transmitted electronically to *jay.freedman@va.gov* or mailed to Dr. Freedman at Department of Veterans Affairs, Office of Research and Development (12), 810 Vermont Avenue, Washington, DC 20420.

Dated: February 14, 2008.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 08–782 Filed 2–20–08; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of amendment to system of records.

SUMMARY: The Privacy Act of 1974, 5 U.S.C. 522a (e), requires that all agencies publish in the **Federal Register** a notice of the existence and character of their systems of records. Notice is hereby given that VA is amending the system of records entitled "Center for Veterans Enterprise VA VetBiz Vendor Information Pages (VIP)" (123VA00VE) as set forth in the **Federal Register** 68 FR 26685. VA is amending the system by revising the System Name, Categories of Individuals Covered by the System, Categories of Records in the System, Authority for Maintenance of the System, Routine Uses of Records Maintained in the System, including Categories of Users and the Purposes of Such Uses, Retrievability, and Safeguards. VA is also adding data elements to the System Notice required by the **Federal Register** Document Drafting Handbook. VA is republishing the system notice in its entirety.

DATES: Comments on the amendment of this system of records must be received no later than March 24, 2008. If no public comment is received, the amended system will become effective March 24, 2008.

ADDRESSES: Written comments may be submitted through *www.Regulations.gov;* by mail or hand-delivery to the Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS).

FOR FURTHER INFORMATION CONTACT: Kelsey Mortimer II (00VE), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, telephone number (202) 303–3260 ext 5246.

SUPPLEMENTARY INFORMATION:

I. Description of the Proposed Amendments to System of Records "Center for Veterans Enterprise (CVE) VA VetBiz Vendor Information Pages (VIP)" (123VA00VE)

The Department of Veterans Affairs is amending the VetBiz system of records notice to implement legal requirements that became applicable to the system since the last publication of the system notice by the Agency. The legal requirements are imposed by legislation and government-wide direction of the Office of Management and Budget (OMB), as well as paragraph 3.12 of the **Federal Register** Document Drafting Handbook. In December 2006, Congress enacted the Veterans Benefits, Health Care and Information Technology Act of 2006 (Act), Public Law 109–461, 120 Stat. 3403. Section 502(a)(1) of the Act created a new section 8127 of title 38, United States Code, 38 U.S.C. 8127.

Subsection 8127 requires the Secretary of Veterans Affairs to create and maintain a database of veteran-owned small businesses. Veterans' participation in the database is voluntary. VA was maintaining such a database prior to enactment of section 8127; the contents of the database are covered by the system of records notice published at 68 FR 26685.

Section 8127 requires VA to verify specific information concerning the veteran business owners who choose to be listed in the database. VA is required to verify that the business is owned and controlled by a veteran or eligible surviving spouse, and if a veteran indicates that s/he has a service-connected disability, VA is required to verify the service-disabled status of the veteran. The term service-connected disability means a disability that the individual incurred or had it aggravated in the line of duty in active military, naval or air service. The Veterans Benefits Administration (VBA) makes these decisions, and maintains the records of the service-disabled status of individuals.

The VetBiz program will verify the three items of information in two ways. First, VA will ask the small business owners to provide certain information about the ownership and control of their businesses. VA has obtained OMB approval (2900–0675) of the form that VA intends to use to collect this information, and therefore has authority to use the form under OMB's regulations implementing the Paperwork Reduction Act. 5 CFR Part 1320. Second, the VetBiz program will verify through VBA the service-disabled status of any veteran or eligible surviving spouse who decides to participate in the program, and claims service-disabled status.

Section 8127 requires VA to make the database available to all Federal departments and agencies, and make portions of the database publicly available. However, section 8127(f)(6) states that if the Secretary determines that the public dissemination of certain types of information maintained in the database is inappropriate, the Secretary shall take such steps as are necessary to maintain such types of information in a secure and confidential manner. The database will contain information that VA needs to administer the program and assist veteran-owned small businesses. In the normal course of administering the program, VA may share limited personal data with other government entities. VA will not disclose veteran's personal information or data in the public portion of the database.

The Act also added a new subchapter III, Information Security, to Chapter 57 of title 38, United States Code. Section 5724 requires VA to conduct an independent risk analysis (IRA) when VA has experienced a data breach involving the sensitive personal information of those individuals. The section also requires VA to provide credit protection services to those individuals if VA determines after the IRA that there is a reasonable risk for potential misuse of the individuals' sensitive personal information. In order to conduct the independent risk analysis and provide credit protection services, if appropriate, VA will have to disclose the sensitive personal information of these individuals to the entities performing the IRA and providing the credit protection services. Because the sensitive personal information is contained in this system of records, VA needs to add a routine use to the system of records permitting these disclosures.

In addition to the requirements of section 5724, the Office of Management and Budget (OMB) issued OMB Memorandum M–07–16, Safeguarding Against and Responding to the Breach of Personally Identifiable Information, May 22, 2007, which is publicly available at *http://www.whitehouse.gov/omb/memoranda/fy2007/m07–16.pdf.* This Memorandum requires agencies to promulgate a routine use to permit agencies to disclose information to those persons or entities that may assist in notification of individuals of a data breach or prevent or minimize the harms from a data breach. Attachment 2, section B2. The Agency is promulgating one routine use that enables VA to meet its responsibilities under both section 5724 and OMB Memorandum M–07–16.

Turning to the substantive amendments to the System Notice, VA is amending the System Name to include the abbreviation for the Vendor Information Pages (VIP) because it is the Agency's experience that individuals, agencies and vendors interacting with the system commonly use the abbreviation when referring to the program.

To comply with paragraph 3.12 of the **Federal Register** Document Drafting Handbook, VA is adding a statement that this system of records does not contain classified information.

The Department is amending the Categories of Individuals Covered by the System to clarify that the System Notice only covers individual veterans who have applied to have their company included in the VetBiz database, and after the veteran is deceased, their qualifying surviving spouse as provided in section 8127(h).

The Department is amending the Categories of Records covered to reflect the personal information about veteran business owners maintained in the system. The information about participating veterans and about their companies is maintained in one, combined database. However, the Privacy Act only applies to information about individuals retrieved by their names; it does not apply to information about their companies, except to the extent that the information is also personal information about them. This interpretation of the Privacy Act is consistent with the express language of the Privacy Act, and long-standing OMB guidance on this issue at 40 FR 28948, 28951 (1975). Records in the VetBiz database that are not covered by the Privacy Act and this System Notice generally may include business addresses and other business contact information, information concerning products/services offered, and information pertaining to the business, including Federal contracts. More non-covered data elements are contained in the discussion of "Retrievability" below.

VA is amending the Authority for Maintenance of the System to include 38 U.S.C. 8127, which now specifically provides for the maintenance of the VetBiz database.

The **Federal Register** Document Drafting Handbook, paragraph 3.12, states that agencies must include in their System Notice a statement of the purpose for maintaining the System Notice. VA is providing the statement of purpose, namely to assist veterans, including service-disabled veterans, in obtaining Federal contracts and otherwise market their companies.

The Department is deleting the section of the System Notice entitled "Compatibility of the Proposed Routine Uses" because that is not one of the data elements that the Document Drafting Handbook requires in the System Notice. However, VA is including this statement in the Report of Intent submitted to OMB and the congressional oversight committees as required in OMB Circular A–130, Appendix I.

The Department is amending the Retrievabililty data element to state that VA retrieves information in the VetBiz database covered by the Privacy Act by the names and/or social security numbers. The following information is not covered by the Privacy Act and this System Notice because it is not information about veterans. However, for general information, VA also retrieves information from the VetBiz database by other, non-personal

elements, including the following: Business name, type, location, previous experience, certifications (e.g. HUBZone, 8(a), etc.), product identifiers (e.g., North American Industry Classification System [NAICS]), and Dun and Bradstreet's Data Universal Numbering System [DUNS] number, etc.

VA is amending the Safeguards data element to state that VA maintains the VetBiz database in accordance with applicable Federal and VA information security requirements.

The Department is adding a statement, as required by paragraph 3.12 of the Document Drafting Handbook, that it does not disclose records from this system of records at VA's initiative to consumer reporting agencies.

VA is adding a statement to the System Notice clarifying that VA has not claimed any Privacy Act exemptions under 5 U.S.C. 552a(j) and (k) for records in the system.

In addition, the Department has made minor edits to the System Notice for grammar and clarity purposes to reflect plain language. These changes are not, and are not intended to be, substantive, and are not further discussed or enumerated.

II. Proposed Routine Use Disclosures of Data in the System

VA is proposing to delete one routine use disclosure and add the following routine use disclosures of information that will be maintained in the system.

The Department is deleting routine use 3 because it states the purpose for which VA uses the data in the system and belongs in the "Purpose(s)" section of the System Notice.

The Department is promulgating a new routine use 3 required of all systems of records of all Federal agencies by the Memorandum from the Office of Management and Budget (M–07–16), dated May 22, 2007, as discussed above. Further, the disclosures allow VA to respond to a suspected or confirmed data breach, including the conduct of any independent risk analysis or provision of credit protection services as provided in 38 U.S.C. 5724, as the terms are defined in 38 U.S.C. 5727.

VA is promulgating a new routine use 4 that authorizes VA to disclose information to law enforcement entities when information in the system is relevant to a suspected or reasonably imminent violation of law. VA must be able to disclose information within its possession on its own initiative that pertains to a violation of law to the appropriate authorities in order for them to investigate and enforce those laws. VA may disclose the names of veterans and their dependents only to Federal entities with law enforcement responsibilities under 38 U.S.C. 5701(a) and (f). Accordingly, VA has so limited this routine use.

New routine use 5 implements guidance from OMB concerning the promulgation of a routine use permitting disclosure of information to Members of Congress acting on behalf of the record subject. Individuals sometimes request the help of a Member of Congress in resolving some issue relating to a matter before VA. When the Member of Congress writes VA, VA must be able to provide sufficient information to be responsive to the inquiry. This routine use is consistent with guidance from the Office of Management and Budget (OMB), issued on October 3, 1974, that directed all Federal agencies to insert this language in their systems of records. *(http://www.whitehouse.gov/omb/inforeg/lynn1975.pdf).*

New routine use 6 implements the statutory requirement that VA provide information to the National Archives and Records Administration (NARA). NARA is responsible for archiving old records no longer actively used but which may be appropriate for preservation and for the physical maintenance of the Federal Government's records. VA must be able to turn records over to NARA in order to determine the proper disposition of such records, as well as permit NARA to perform its statutory records management responsibilities.

New routine use 7 permits VA to disclose information to the United States Department of Justice for use in performing its statutory duties to represent the United States, the Agency and agency officials in litigation. When VA is involved in litigation or an adjudicative or administrative process, or occasionally when another party is involved in litigation or an adjudicative or administrative process, and VA policies or operations could be affected by the outcome of the litigation or process, VA must be able to disclose information to the court, the adjudicative or administrative body, or the parties involved. A determination would be made in each instance that, under the circumstances involved, the purpose served by use of the information in the particular litigation or process is compatible with the purpose for which VA collected the information. This routine use is consistent with OMB guidance issued on May 24, 1985, directing all Federal agencies to promulgate such a routine use *(http://www.whitehouse.gov/omb/inforeg/guidance1985.pdf).*

The Department is promulgating a new routine use 8 to permit disclosures to contractors who need to see the information in this system to perform a contract with the agency. Appendix I to OMB Circular A–130 states in paragraph 5a(1)(b) that agencies promulgate a routine use to address disclosure of Privacy Act-protected information to contractors in order to perform the contracts for the agency. VA must be able to provide information to contractors or subcontractors with which VA has a contract or agreement in order to perform the services of the contract or agreement. In these situations, safeguards are provided in the contract prohibiting the contractor or subcontractor from using or disclosing the information for any purpose other than that described in the contract.

III. Compatibility of the Proposed Routine Uses

The Privacy Act permits VA to disclose information about individuals without their consent for a routine use when the information will be used for a purpose that is compatible with the purpose for which VA collected the information. In the routine use disclosures described above, except those governed by the Department of Labor (DOL), either the recipient of the information will use the information in connection with a matter relating to one of VA's programs or to provide a benefit to VA, or disclosure is required by law.

The notice of intent to publish and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of the Office of Management and Budget (OMB) as required by the Privacy Act, 5 U.S.C. 552a(r), and guidelines issued by OMB, 65 FR 77677, December 12, 2000.

Approved: February 5, 2008.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

123VA00VE

SYSTEM NAME:

Center for Veterans Enterprise (CVE) VA VetBiz Vendor Information Pages (VIP) (123VA00VE).

SECURITY CLASSIFICATION:

None. This system of records does not contain classified information or records.

SYSTEM LOCATION:

Records are maintained at the Center for Veterans Enterprise's office in VA Headquarters, Washington, DC. VA's Web Operations (WebOps), Third Floor,

1335 East-West Highway, Silver Spring, MD 20910, maintains the computerized database and Web site.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Veterans who have applied to have their small businesses included in the VetBiz database, and, if deceased, their surviving spouses.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records in this system include:

1. Identifying information on veterans and the surviving spouses of veterans who apply to have their businesses listed in the VetBiz database, including names and social security numbers.

2. Information documenting the eligibility of veterans to have their businesses listed in the VetBiz database, including service-connected status and information concerning ownership of the business(es) listed in VetBiz, including certifications, and security clearances held.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

38 U.S.C. 8127 and Public Law No. 106–50, as amended.

PURPOSE(S):

To gather and maintain information on small businesses owned and controlled by veterans, including service-disabled veterans, to enable them to effectively compete for Federal contracts, as well as working with the Small Business Administration in its provision of services to veteran-owned businesses under the Veterans Entrepreneurship and Small Business Development Act of 1999, as amended, Public Law 106–50, 113 Stat. 233.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. The Department may disclose information in the system to Federal, State, and local government personnel to assist them in finding veteran-owned businesses to contract with and for purposes of market research, in compliance with their respective procurement regulations and procedures.

2. The Department may disclose information to the general public, including companies and corporate entities, to assist them in locating potential contractors, subcontractors and/or potential teaming partners, for purposes of complying with applicable regulations concerning use of veteran-owned businesses.

3. VA may, on its own initiative, disclose any information or records to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that the integrity or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security, confidentiality, or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the potentially compromised information; and (3) the disclosure is to agencies, entities, or persons whom VA determines are reasonably necessary to assist or carry out the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

4. VA may disclose on its own initiative any information in this system, except the names and addresses of veterans and their dependents, which is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal, or regulatory in nature and whether arising by general or program statute or by regulation, rule, or order issued pursuant thereto, to a Federal, State, local, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule, or order. VA may also disclose on its own initiative the names and addresses of veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal, or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule, or order.

5. VA may disclose information to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made on behalf of and at the request of that individual.

6. VA may disclose information to the National Archives and Records Administration (NARA) in records disposition and management inspections conducted under authority of Title 44 of United States Code.

7. VA may disclose information in this system of records to the Department of Justice (DoJ), either on VA's initiative or in response to DoJ's request for the information, after either VA or DoJ determines that such information is relevant to DoJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA, on its own initiative, may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records.

8. VA may disclose information to individuals, organizations, private or public agencies, or other entities with which VA has a contract or agreement, or where there is a subcontract to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor or subcontractor to perform the services of the contract or agreement.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The VetBiz VIP will be stored in a computerized database. The system will operate on servers, located at VA's Web Operations (WebOps), 822 TJ Jackson Drive, Falling Waters, WV 25419. Data backups will reside on appropriate media, according to normal system backup plans for WebOps. The system will be managed by the CVE, in VA Headquarters, Washington, DC.

RETRIEVABILITY:

Automated records may be retrieved by the names of the veteran business owners and/or their social security numbers.

SAFEGUARDS:

Read access to the system is via Internet access. WebOps, CVE, and contractor personnel will have access to the system, via VA Intranet and local connections, for management and maintenance purposes and tasks. Access to the Intranet portion of the system is via user-id and password, at officially approved access points. Veteran-owned small businesses will establish and maintain user-ids and passwords for accessing their corporate information under system control. Contracting officers will establish and maintain user-ids and passwords for accessing

non-vital business information. Policy regarding issuance of user-ids and passwords is formulated in VA by the Office of Information and Technology, Washington, DC. Security for data in the VetBiz database complies with applicable statutes, regulations and government-wide and VA policies. The system is configured so that access to the public data elements in the database does not lead to access to the non-public data elements, such as veteran social security number.

RETENTION AND DISPOSAL:

Records will be maintained and disposed of, in accordance with the records disposal authority approved by the Archivist of the United States, the National Archives and Records Administration, and published in Agency Records Control Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Center for Veterans Enterprise (00VE), 810 Vermont Avenue, NW., Washington, DC 20420.

NOTIFICATION PROCEDURES:

Individuals wishing to inquire, whether this system of records contains information about themselves, should contact the Deputy Director, Center for Veterans Enterprise (00VE), 810 Vermont Avenue, NW., Washington, DC 20420.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves, contained in this system of records, may access the records via the Internet, or submit a written request to the system manager.

CONTESTING RECORD PROCEDURES:

An individual, who wishes to contest records maintained under his or her name or other personal identifier, may write or call the system manager. VA's rules for accessing records, contesting contents and appealing initial agency determinations are published in regulations, set forth in the Code of Federal Regulations. See 38 CFR 1.577, 1.578.

RECORD SOURCE CATEGORIES:

The information in this system of records is obtained from the following source: a. Information voluntarily submitted by the business owners; and/or information extracted from CCR database.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–3291 Filed 2–20–08; 8:45 am]
BILLING CODE 8320–01–P

Corrections

Federal Register
Vol. 73, No. 35
Thursday, February 21, 2008

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 THE TREASURY

Comptroller of the Currency

12 CFR Part 8

[Docket No. OCC–2008–0001]

RIN 1557–AD06

Assessment of Fees

Correction

In rule document E8–3004 beginning on page 9012 in the issue of Tuesday, February 19, 2008, make the following correction:

§8.2 [Corrected]

On page 9014, in §8.2(a), the table is reprinted to read as set forth below:

If the bank's total assets (consolidated domestic and foreign subsidiaries) are:		The semiannual assessment is:		
Over—	But not over—	This amount—base amount	Plus marginal rates	Of excess over—
Column A Million	Column B Million	Column C	Column D	Column E Million
$0	$2	$X1	0	
2	20	X2	Y1	$2
20	100	X3	Y2	20
100	200	X4	Y3	100
200	1,000	X5	Y4	200
1,000	2,000	X6	Y5	1,000
2,000	6,000	X7	Y6	2,000
6,000	20,000	X8	Y7	6,000
20,000	40,000	X9	Y8	20,000
40,000	250,000	X10	Y9	40,000
250,000	.....	X11	Y10	250,000

[FR Doc. Z8–3004 Filed 2–20–08; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Thursday,
February 21, 2008

Part II

Environmental Protection Agency

Drinking Water Contaminant Candidate List 3—Draft; Notice

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2007–1189 FRL–8529–7]

RIN 2040–AD99

Drinking Water Contaminant Candidate List 3—Draft

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is publishing for public review and comment a draft list of contaminants that are currently not subject to any proposed or promulgated national primary drinking water regulations, that are known or anticipated to occur in public water systems, and which may require regulations under the Safe Drinking Water Act (SDWA). This is the third Contaminant Candidate List (CCL 3) published by the Agency since the SDWA amendments of 1996.

This draft CCL 3 includes 93 chemicals or chemical groups and 11 microbiological contaminants. The EPA seeks comment on the draft CCL 3, the approach used to develop the list, and other specific contaminants.

DATES: Comments must be received on or before May 21, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2007–1189, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Mail:* Water Docket, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* Water Docket, EPA Docket Center (EPA/DC) EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OW–2007–1189. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Unit I.B of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Water 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 EPA Docket Center is (202) 566–2426.

FOR FURTHER INFORMATION CONTACT: For information on chemical contaminants contact Thomas Carpenter, Office of Ground Water and Drinking Water, Standards and Risk Management Division, at (202) 564–4885 or e-mail *carpenter.thomas@epa.gov*. For information on microbial contaminants contact Tracy Bone, Office of Ground Water and Drinking Water, at 202–564–5257 or e-mail *bone.tracy@epa.gov*. For general information contact the EPA Safe Drinking Water Hotline at (800) 426–4791 or e-mail: *hotline-sdwa@epa.gov*.

Abbreviations and Acronyms

<—less than
≤—less than or equal to
>—greater than
≥—greater than or equal to
μ—microgram, one-millionth of a gram
μg/L—micrograms per liter
ATSDR—Agency for Toxic Substances and Disease Registry
AWWA—American Water Works Association
CASRN—Chemical Abstract Services Registry Number
CDC—Centers for Disease Control and Prevention
CCL—Contaminant Candidate List
CCL 1—EPA's First Contaminant Candidate List
CCL 2—EPA's Second Contaminant Candidate List
CCL 3—EPA's Third Contaminant Candidate List
CFR—Code of Federal Regulations
CUS/IUR—Chemical Update System/Inventory Update Rule
DBP—disinfection byproduct
DWEL—drinking water equivalent level
EPA—United States Environmental Protection Agency
ESA—ethanesulfonic acid
FDA—United States Food and Drug Administration
FR—**Federal Register**
g—gram
HAAs—haloacetic acids
IOCs-–inorganic contaminants
IRIS—Integrated Risk Information System
kg—kilogram
L—liter
LD_{50}—lethal dose 50; an estimate of a single dose that is expected to cause the death of 50 percent of the exposed animals; it is derived from experimental data.
lbs—pounds
LOAEL—lowest-observed-adverse-effect level
MCL—maximum contaminant level
MCLG—maximum contaminant level goal
MRDD—maximum recommended daily dose
mg/kg—milligrams per kilogram body weight
mg/kg/day—milligrams per kilogram body weight per day
mg/L—milligrams per liter
MMWR—*Morbidity and Mortality Weekly Report*
NAS—National Academy of Sciences
NCI—National Cancer Institute
NCOD—National Contaminant Occurrence Database
NDWAC—National Drinking Water Advisory Council
NOAEL—no-observed-adverse-effect level

NRC—National Academy of Sciences' National Research Council
NPDWR—national primary drinking water regulation
NTP—National Toxicology Program
OPP—Office of Pesticide Programs
PFOA—perfluorooctanoic acid
PFOS—perfluorooctane sulfonic acid
PWS—public water system
RfD—reference dose
SAB—Science Advisory Board
SDWA—Safe Drinking Water Act
TCR—Total Coliform Rule
TD_{50}—tumorigenic dose 50; The dose-rate which if administered chronically for the standard life-span of the species will have a 50% probability of causing tumors at some point during that period.
TRI—Toxics Release Inventory
TDS—training data set
UCM—Unregulated Contaminant Monitoring
UCMR 1—First Unregulated Contaminant Monitoring Regulation
UCMR 2—Second Unregulated Contaminant Monitoring Regulation
US—United States of America
USDA—United States Department of Agriculture
USGS—United States Geological Survey
WBDO—waterborne disease outbreak
WHO—World Health Organization
yr—year

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Impose Any Requirements on My Public Water System?

The draft Contaminant Candidate List 3 (CCL 3) or the final CCL 3, when published, will not impose any requirements on anyone. Instead, this action notifies interested parties of the availability of EPA's draft CCL 3 and seeks comment on the contaminants listed.

B. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

- Explain your views as clearly as possible.
- Describe any assumptions that you used.
- Provide any technical information and/or data you used that support your views.
- Provide specific examples to illustrate your concerns.
- Offer alternatives.

Make sure to submit your comments by the comment period deadline. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

II. Purpose, Background, and Summary of This Action

This section briefly summarizes the purpose of this action, the statutory requirements, previous activities related to the Contaminant Candidate List (CCL), and the approach used to develop the CCL 3.

A. What Is the Purpose of This Action?

The Safe Drinking Water Act (SDWA), as amended in 1996, requires EPA to publish a list of currently unregulated contaminants that may pose risks for drinking water (referred to as the Contaminant Candidate List, or CCL) and to make determinations on whether to regulate at least five contaminants from the CCL with a national primary drinking water regulation (NPDWR) (section 1412(b)(1)). The 1996 SDWA requires the Agency to publish both the CCL and the regulatory determinations every five years. The purpose of this action is to present EPA's draft list of contaminants on the CCL 3, a description of the selection process, and the rationale used to make the list.

This action also includes a request for comment on the Agency's draft CCL 3, the approach used to develop the list, and other specific contaminants.

B. Background on the CCL, Regulatory Determinations, and Unregulated Contaminant Monitoring

1. Statutory Requirements for CCL and Regulatory Determinations

Section 1412(b) (1) of SDWA, as amended in 1996, requires EPA to publish the Contaminant Candidate List every five years. SDWA specifies that the list must include contaminants that are not subject to any proposed or promulgated NPDWRs, are known or anticipated to occur in public water systems (PWSs), and may require regulation under SDWA.

The 1996 SDWA Amendments also specify three criteria to determine whether a contaminant may require regulation:

- The contaminant may have an adverse effect on the health of persons;
- The contaminant is known to occur or there is a substantial likelihood that the contaminant will occur in public water systems with a frequency and at levels of public health concern; and
- In the sole judgment of the Administrator, regulation of such contaminant presents a meaningful opportunity for health risk reduction for persons served by public water systems.

In developing the draft CCL 3, the Agency considered the best available data and information for unregulated contaminants. As required under the Safe Drinking Water Act, EPA evaluated substances identified in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and substances registered as pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act. In addition to these required data sources, the Agency also developed the National Contaminant Occurrence Database (NCOD) established under section 1445(g) of SDWA. Substances from NCOD were included in the initial set

of contaminants considered for the draft CCL 3.

SDWA also directs the Agency to consider the health effects and occurrence information for unregulated contaminants to identify those contaminants that present the greatest public health concern related to exposure from drinking water. In selecting contaminants for the draft CCL 3, adverse health effects that may pose a greater risk to subgroups which represent a meaningful portion of the population were considered. Adverse health effects associated with infants, children, pregnant women, the elderly, and individuals with a history of serious illness were evaluated for both chemicals and microbes. The specific analyses and evaluations used by the Agency are discussed and cited in the relevant sections of this notice.

2. The First Contaminant Candidate List

Following the 1996 SDWA Amendments, EPA sought input from the National Drinking Water Advisory Council (NDWAC) on the process that should be used to identify contaminants for inclusion on the first CCL (CCL 1). For chemical contaminants, the Agency developed screening and evaluation criteria based on the recommendations provided by NDWAC. For microbiological contaminants, NDWAC recommended that the Agency seek external expertise to identify and select potential waterborne pathogens. As a result, an external group of microbiologists and public health experts developed the criteria for screening, conducted an evaluation of microbial agents, and selected the initial list of microbiological contaminants for the CCL 1.

The draft CCL 1 was published on October 6, 1997 (62 *FR* 52193 (USEPA, 1997)). After consideration of all comments, EPA published the final CCL 1, which included 50 chemical and 10 microbiological contaminants, on March 2, 1998 (63 *FR* 10273 (USEPA, 1998 b)). A more detailed discussion of how EPA developed CCL 1 can be found in the 1997 and the 1998 **Federal Register** notices (62 *FR* 52193 (USEPA, 1997) and 63 *FR* 10273 (USEPA, 1998 b)).

3. The Regulatory Determinations for CCL 1

EPA published its preliminary regulatory determinations for a subset of contaminants listed on CCL 1 on June 3, 2002 (67 *FR* 38222 (USEPA, 2002 b)). The Agency published its final regulatory determinations on July 18, 2003 (68 *FR* 42898 (USEPA, 2003 a)). EPA identified 9 contaminants from the 60 contaminants listed on CCL 1 that had sufficient data and information available to make regulatory determinations. The 9 contaminants were *Acanthamoeba*, aldrin, dieldrin, hexachlorobutadiene, manganese, metribuzin, naphthalene, sodium, and sulfate. The Agency determined that a national primary drinking water regulation was not necessary for any of these 9 contaminants. The Agency issued guidance on *Acanthamoeba* and health advisories for magnesium, sodium, and sulfate.

4. The Second Contaminant Candidate List

The Agency published its draft second CCL (CCL 2) **Federal Register** notice on April 2, 2004 (69 *FR* 17406 (USEPA, 2004)) and the final CCL 2 **Federal Register** notice on February 24, 2005 (70 *FR* 9071 (USEPA, 2005 b)). The CCL 2 carried forward the 51 remaining chemical and microbial contaminants that were listed on CCL 1.

5. The Regulatory Determinations for CCL 2

EPA published its preliminary regulatory determinations for a subset of contaminants listed on CCL 2 on May 1, 2007 (72 *FR* 24015 (USEPA, 2007 d)). EPA identified 11 contaminants from the 51 contaminants listed on CCL 2 that had sufficient data and information available to make preliminary regulatory determinations. The 11 contaminants are boron, the dacthal mono- and di-acid degradates, 1,1-dichloro-2,2-bis (p-chlorophenyl) ethylene (DDE), 1,3-dichloropropene, 2,4-dinitrotoluene, 2,6-dinitrotoluene, s-ethyl propylthiocarbamate (EPTC), fonofos, terbacil, and 1,1,2,2-tetrachloroethane. The Agency has made a preliminary determination that a national primary drinking water regulation is not necessary for any of these 11 contaminants. The Agency is scheduled to publish its final regulatory determinations in 2008. In the May 1, 2007 *FR* notice, the Agency indicated that additional information was needed to make the regulatory determinations for perchlorate and methyl tertiary butyl ether (MTBE) and provided a summary of the current health effects, occurrence, and exposure information.

6. The Unregulated Contaminant Monitoring Rule

SDWA provides EPA with the authority to require all large and a subset of small systems to monitor for unregulated contaminants. EPA may require monitoring for up to 30 contaminants under the Unregulated Contaminant Monitoring Rule (UCMR). Since the 1996 SDWA amendments, the Agency has issued two UCMRs (UCMR 1 and UCMR 2). UCMR 1 was promulgated on September 17, 1999 (64 *FR* 50556 (USEPA, 1999)) and UCMR 2 on January 4, 2007 (72 *FR* 367 (USEPA, 2007 a)), followed by two revisions published later in January 2007 (72 *FR* 3916 (USEPA, 2007 b) and 72 *FR* 4328 (USEPA, 2007 c)). Monitoring under UCMR 2 will take place during the 2008–2010 time period.

UCMR 2 requires monitoring for several pesticides and pesticide degradates, five polybrominated diphenyl ether (PBDE) flame retardants, a group of nitrosamines and two munitions (TNT and RDX). All of the chemicals on UCMR 2 were included among the contaminants evaluated for CCL 3. Data collected under the UCMR are an important source of occurrence information for the CCL process.

7. The Third Contaminant Candidate List

In 1998, the Agency sought advice from the National Academy of Sciences' National Research Council (NRC) on how to improve the CCL process. The NRC published its recommendations on the CCL process in 2001 (NRC, 2001). The NRC proposed a broader, more reproducible process to identify the CCL than the process used by EPA in the first CCL. The NRC recommended that EPA develop and use a multi-step process for creating CCL 3 and future CCLs, whereby a broadly defined "universe" of potential drinking water contaminants is identified, assessed, and reduced to a preliminary CCL (PCCL) using simple screening criteria. All of the contaminants on the PCCL would then be assessed in more detail using a classification tool to evaluate the likelihood that specific contaminants could occur in drinking water at levels and at frequencies that pose a public health concern.

In 2002, the Agency sought input from the National Drinking Water Advisory Council (NDWAC) on how to implement the NRC's recommendations to improve the CCL process. NDWAC agreed that EPA should proceed with the NRC's recommendations and provided some additional considerations, including the overarching principles the Agency should follow. The NDWAC workgroup met 10 times between September 2002 and May 2004. The NDWAC issued its recommendations in "The National Drinking Water Advisory Council Report on the CCL Classification Process to the U.S. Environmental Protection Agency" (NDWAC, 2004).

NDWAC recommended two guiding principles for construction of the CCL universe, which are:

- The universe should include those contaminants that have demonstrated or have potential occurrence in drinking water, and
- The universe should include those contaminants that have demonstrated or have potential adverse health effects.

These inclusionary principles apply to the selection of contaminants for initial CCL consideration.

The NDWAC also recommended that the universe of contaminants should be screened based on widely available data elements that indicate important health effects and occurrence information. This screening step should be as simple as possible and capable of identifying contaminants of the greatest significance for further consideration. Consideration of a classification approach was also recommended to increase the transparency and reproducibility of the CCL decision process. NDWAC recommended that EPA pursue classification models that build on the screening criteria to further characterize the adverse health effects and occurrence of chemical contaminants. NDWAC noted that the classification models are tools to help prioritize contaminants for the CCL. The model results, available information used by the model, and expert reviews should be used to determine which contaminants are listed for the next CCL. The process to develop the models should be viewed as iterative, and EPA should involve experts and allow opportunities for meaningful public comment on the evaluation of contaminants.

NDWAC recommended several overarching principles that EPA should use to develop the CCL. In addition to the need for transparency and public participation, these overarching recommendations include:

- Integrate expert judgment throughout the CCL process. Expert judgment is inherent throughout the development of the CCL process and in implementing that process once it is developed. Critical reviews, involving various types of expert consultation and collaboration, will be useful at key points in the new, evolving CCL process.
- Conduct an active surveillance and nomination/evaluation processes to ensure timely identification of information relevant to new and emerging agents.
- Apply an adaptive management approach (i.e., an approach that can be refined in future iterations as more knowledge is acquired) to implement the CCL process. The development of any model should be an adaptive process, and should be reviewed by experts with consideration given to updating the process with each successive CCL cycle.

NDWAC also recognized that there were significant differences in the methods and information used to characterize chemical and microbiological contaminants. Chemical contaminants tend to be characterized by toxicological and occurrence data that can be modeled or estimated if measurement is not possible. These discrete characteristics are often captured in data sources. For microbes, the adverse health effects from exposure are characterized by clinical or epidemiological data and there are few methods to estimate or model their occurrence. Limited sources of tabular data for microbes may require evaluation of primary literature, technical reports, monographs, and reference books to identify a universe of microbes for consideration. NDWAC recommended the Agency use human pathogens as the starting point for identifying microorganisms considered for inclusion in the CCL and apply a two-step evaluation of those pathogens.

C. Summary of the Approach Used To Identify and Evaluate Candidates for CCL 3

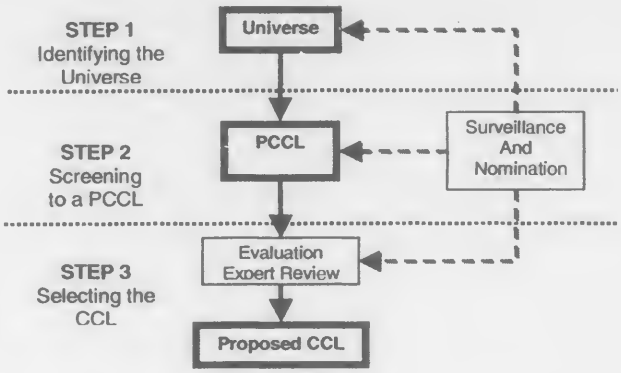
The Agency revised the CCL process used in previous efforts based on the knowledge and experience it has gained from evaluating unregulated contaminants and the recommendations and advice from NRC and NDWAC. Based on these recommendations the Agency developed and implemented a classification approach that identifies priority drinking water contaminants in a transparent and reproducible manner that is amenable to an adaptive management approach.

The Agency's approach to classifying contaminants is based on available data to characterize the occurrence and adverse health risks a contaminant may pose to consumers of public water systems. EPA developed and implemented the following multi-step CCL process to identify contaminants for inclusion on the Draft CCL 3.

- Identify a broad universe of potential drinking water contaminants (called the CCL 3 Universe). EPA evaluated 284 data sources that may identify potential chemical and microbial contaminants and selected a set of approximately 7,500 chemical and microbial contaminants from these data sources for initial consideration.
- Apply screening criteria to the CCL 3 Universe to identify those contaminants that should be further evaluated. Contaminants not passing the screening criteria remained in the universe. The screening criteria EPA developed are based on a contaminant's potential to occur in public water systems and the potential for public health concern. Applying these criteria narrows the universe of contaminants to a Preliminary-CCL (or PCCL).
- Identify contaminants from the PCCL to include on the CCL based on a more detailed evaluation of occurrence and health effects. For chemicals, EPA used structured classification models as tools to evaluate and identify drinking water priority contaminants. Decisions to include chemicals were made using the model results and the best available data to identify contaminants that may occur in PWSs and may cause adverse health effects. EPA used a decision tree approach for microbial contaminants to identify those contaminants that have the potential to occur in PWSs and transmit waterborne disease. These two approaches resulted in a draft list of chemicals and microbes for inclusion on the Draft CCL 3.
- Incorporate public input and expert review in the CCL process. EPA sought public input by asking for nominations of contaminants to consider for the CCL (71 *FR* 60704 (USEPA, 2006 b)) and incorporated these nominations in the three key steps already discussed. EPA also convened several expert panels for both chemicals and microbes to review, and provide input and comment, on the CCL 3 process and on a review of a preliminary draft CCL 3.

Exhibit 1 illustrates the CCL multi-step approach that resulted from the Agency's efforts, input, and collaboration with NRC and NDWAC. This generalized process is applied to both chemical and microbial contaminants, though the specific execution of particular steps differs in detail.

Exhibit 1. Schematic of CCL classification process



EPA provides a more detailed discussion of the analyses and decisions it made to develop the Draft CCL 3 in the EPA Water Docket. EPA prepared several support documents that are available for review at *http://www.regulations.gov*. These documents include:

- Three comprehensive support documents for the chemicals entitled, "Contaminant Candidate List 3 Chemicals: Identifying the Universe" (USEPA, 2008 a), "Contaminant Candidate List 3 Chemicals: Screening to a PCCL" (USEPA, 2008 b), and "Contaminant Candidate List 3 Chemicals: Classification of the PCCL to the CCL" (USEPA, 2008 c). These documents describe in detail how the classification process was developed and used to select the chemicals for the Draft CCL.
- Three comprehensive support documents for the microbes entitled, "Contaminant Candidate List 3 Microbes: Identifying the Universe" (USEPA, 2008 d), "Contaminant Candidate List 3 Microbes: Screening to the PCCL" (USEPA, 2008 e), and "Contaminant Candidate List 3 Microbes: PCCL to CCL Process" (USEPA, 2008 f). These documents describe the microbial listing process in detail.
- The Agency also prepared summaries of stakeholder involvement and reviews conducted on the CCL process and draft list. These documents are also available in the EPA Water Docket and at *http://www.regulations.gov*.
- National Drinking Water Advisory Council Report on the CCL Classification Process to the U.S. Environmental Protection Agency, May 19, 2004.
- A nominations and surveillance report, entitled "Summary of the Nominations for the Third Contaminant Candidate List" (USEPA, 2008 g), which describes the nominations process and the contaminants that were nominated as part of EPA's process.
- Two documents summarizing the expert review of the chemical and microbial processes, entitled "Chemical Expert Input and Review for the Third Contaminant Candidate List" (USEPA, 2008 h) and "Microbial Expert Input and Review for the Third Contaminant Candidate List" (USEPA, 2008 i).

D. What Is on EPA's Draft CCL 3?

EXHIBIT 2.—DRAFT CONTAMINANT CANDIDATE LIST 3: MICROBIAL CONTAMINANTS

Pathogens
Caliciviruses
Campylobacter jejuni
Entamoeba histolytica
Escherichia coli (0157)
Helicobacter pylori
Hepatitis A virus
Legionella pneumophila
Naegleria fowleri
Salmonella enterica
Shigella sonnei
Vibrio cholerae

CHEMICAL CONTAMINANTS

Common name—registry name	CASRN
alpha-Hexachlorocyclohexane	319–84–6
1,1,1,2-Tetrachloroethane	630–20–6
1,1-Dichloroethane	75–34–3
1,2,3-Trichloropropane	96–18–4
1,3-Butadiene	106–99–0
1,3-Dinitrobenzene	99–65–0
1,4-Dioxane	123–91–1
1-Butanol	71–36–3

CHEMICAL CONTAMINANTS—Continued

Common name—registry name	CASRN
2-Methoxyethanol	109–86–4
2-Propen-1-ol	107–18–6
3-Hydroxycarbofuran	16655–82–6
4,4'-Methylenedianiline	101–77–9
Acephate	30560–19–1
Acetaldehyde	75–07–0
Acetamide	60–35–5
Acetochlor	34256–82–1
Acetochlor ethanesulfonic acid (ESA)	187022–11–3
Acetochlor oxanilic acid (OA)	184992–44–4
Acrolein	107–02–8
Alachlor ethanesulfonic acid (ESA)	142363–53–9
Alachlor oxanilic acid (OA)	171262–17–2
Aniline	62–53–3
Bensulide	741–58–2
Benzyl chloride	100–44–7
Butylated hydroxyanisole	25013–16–5
Captan	133–06–2
Chloromethane (Methyl chloride)	74–87–3
Clethodim	110429–62–4
Cobalt	7440–48–4
Cumene hydroperoxide	80–15–9
Cyanotoxins (3).	
Dicrotophos	141–66–2
Dimethipin	55290–64–7
Dimethoate	60–51–5
Disulfoton	298–04–4
Diuron	330–54–1
Ethion	563–12–2
Ethoprop	13194–48–4
Ethylene glycol	107–21–1
Ethylene oxide	75–21–8
Ethylene thiourea	96–45–7
Fenamiphos	22224–92–6
Formaldehyde	50–00–0
Germanium	7440–56–4
HCFC–22	75–45–6
Hexane	110–54–3
Hydrazine	302–01–2
Methamidophos	10265–92–6
Methanol	67–56–1
Methyl bromide (Bromomethane)	74–83–9
Methyl tert-butyl ether	1634–04–4

CHEMICAL CONTAMINANTS—Continued

Common name—registry name	CASRN
Metolachlor	51218–45–2
Metolachlor ethanesulfonic acid (ESA)	171118–09–5
Metolachlor oxanilic acid (OA)	152019–73–3
Molinate	2212–67–1
Molybdenum	7439–98–7
Nitrobenzene	98–95–3
Nitrofen	1836–75–5
Nitroglycerin	55–63–0
N-Methyl-2-pyrrolidone	872–50–4
N-nitrosodiethylamine (NDEA)	55–18–5
N-nitrosodimethylamine (NDMA)	62–75–9
N-nitroso-di-n-propylamine (NDPA)	621–64–7
N-Nitrosodiphenylamine	86–30–6
N-nitrosopyrrolidine (NPYR)	930–55–2
n-Propylbenzene	103–65–1
o-Toluidine	95–53–4
Oxirane, methyl-	75–56–9
Oxydemeton-methyl	301–12–2
Oxyfluorfen	42874–03–3
Perchlorate	14797–73–0
Permethrin	52645–53–1
PFOA (perfluorooctanoic acid)	335–67–1
Profenofos	41198–08–7
Quinoline	91–22–5
RDX (Hexahydro–1,3,5–trinitro–1,3,5–triazine)	121–82–4
sec-Butylbenzene	135–98–8
Strontium	7440–24–6
Tebuconazole	107534–96–3
Tebufenozide	112410–23–8
Tellurium	13494–80–9
Terbufos	13071–79–9
Terbufos sulfone	56070–16–7
Thiodicarb	59669–26–0
Thiophanate-methyl	23564–05–8
Toluene diisocyanate	26471–62–5
Tribufos	78–48–8

CHEMICAL CONTAMINANTS—Continued

Common name—registry name	CASRN
Triethylamine	121–44–8
Triphenyltin hydroxide (TPTH)	76–87–9
Urethane	51–79–6
Vanadium	7440–62–2
Vinclozolin	50471–44–8
Ziram	137–30–4

III. What Analyses Did EPA Use To Develop the Draft CCL 3?

A. Classification Approach for Chemicals

1. Identifying the Universe

In the first step in the approach, EPA compiled potential data sources, including sources identified at a stakeholder workshop sponsored by the American Water Works Association (AWWA), to develop a broad universe of potential drinking water contaminants, as shown in Exhibit 1. This compilation identified the 284 data sources that were assessed for the CCL Universe.

EPA developed a decision tree for data source selection that was based on four assessment factors, which were applied to all of the potential data sources:

- Relevance. Ensures that the data source provided information on demonstrated or potential health effects, occurrence, or potential occurrence using surrogate information (e.g., environmental release, environmental fate, and transport properties);
- Completeness. Ensures that the data source had minimum record requirements—contact name, description of the data elements, and how the data were obtained;
- Redundancy. Ensures that the data source does not contain information identical to other more comprehensive data sources; and
- Retrievability. Ensures that the data in the source are formatted for automated retrieval. Each source was accessed on-line (or as provided by the source) and reviewed.

Basic information about the source, its purpose, and the data elements it contained, was compiled and documented. Every source was evaluated using all assessment factors sequentially. Those sources that met all four factors became the prime sources that formed the "Universe of Data Sources." Sources that passed the first three factors, but were not retrievable, were designated as supplemental data sources, to be consulted as necessary (e.g., to fill in data gaps) in the development of the CCL. Some of the sources that were not easily retrievable were identified as "unique" or "exceptional" because of the importance of their data (i.e., the Hazardous Substance Database). EPA included chemicals from these sources in the Universe.

After application of the four assessment factors, 39 sources (Exhibit 3) met all four factors or were considered as exceptional. These sources were the primary sources used to develop the CCL Chemical Universe. The details of the how EPA compiled the list of data sources is discussed in the document entitled, "CCL 3 Chemicals: Identifying the Universe" (USEPA, 2008 a).

EXHIBIT 3.—SOURCES THAT COMPRISE THE CHEMICAL UNIVERSE OF DATA SOURCES FOR THE CCL PROCESS

Name of data source
1. ATSDR CERCLA Priority List.
2. ATSDR Minimal Risk Levels (MRLs).
3. Chemical Toxicity Database—Ministry of Health and Welfare, Japan.
4. Chemical Update System/Inventory Update Rule (CUS/IUR)—EPA.
5. Cumulative Estimated Daily Intake/Acceptable Daily Intake (CEDI/ADI) Database—FDA.
6. Database of Sources of Environmental Releases of Dioxin-Like Compounds in the United States—EPA.
7. Distributed Structure Searchable Toxicity Public Database Network (DSSTox)—EPA.
8. Everything Added to Food in the United States (EAFUS) Database—FDA.
9. Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) List—EPA.
10. Generally Regarded As Safe (GRAS) Substance List—FDA.
11. Guidelines for Canadian Drinking Water Quality (CADW): Summary of Guidelines—Health Canada.
12. Hazardous Substances Data Bank (HSDB)—NLM.
13. Health Advisories (HA) Summary Tables—EPA.
14. High Production Volume (HPV) Chemical List—EPA.
15. Indirect Additives Database—FDA.
16. Integrated Risk Information System (IRIS)—EPA.
17. International Agency for Research on Cancer (IARC) Monographs.
18. International Toxicity Estimates for Risk (ITER) Database—TERA.
19. Joint Meeting On Pesticide Residues (JMPR)—2001 Inventory of Pesticide Evaluations—WHO, FAO.
20. National Drinking Water Contaminant Occurrence Database (NCOD)—Round 1&2—EPA.
21. National Drinking Water Contaminant Occurrence Database (NCOD)—Unregulated Contaminant Monitoring Rule (UCMR)—EPA.
22. National Inorganics and Radionuclides Survey (NIRS)—EPA.
23. National Pesticide Use Database—NCFAP.

EXHIBIT 3.—SOURCES THAT COMPRISE THE CHEMICAL UNIVERSE OF DATA SOURCES FOR THE CCL PROCESS—Continued

Name of data source
24. National Reconnaissance of Emerging Contaminants (NREC)—USGS Toxic Substances Hydrology Program.
25. National Toxicology Program (NTP) Studies.
26. National Water Quality Assessment (NAWQA)—USGS.
27. OSHA 1988 Permissible Exposure Limits (PELs)—NIOSH.
28. Pesticide Data Program—USDA.
29. Pesticides Pilot Monitoring Program—USGS/EPA.
30. Risk Assessment Information System (RAIS)—Department of Energy—Chemical Factors.
31. Risk Assessment Information System (RAIS)—Department of Energy—Health Effects Data.
32. State of California Chemicals Known to the State to Cause Cancer or Reproductive Toxicity.
33. Substances Registry System (SRS)—EPA.
34. Syracuse Research Corporation (SRC)—BIODEG.
35. The Toxics Release Inventory (TRI)—EPA.
36. Toxic Substances Control Act (TSCA) List—EPA.
37. Toxicity Criteria Database—California Office of Environmental Health Hazard Assessment (OEHHA).
38. University of Maryland—Partial List of Acute Toxins/Partial List of Teratogens.
39. WHO Guidelines for Drinking Water Quality: Summary Tables.

There were approximately 26,000 unique substances identified from the 39 data sources. Because of the large number of unique substances identified, EPA developed an initial universe selection process. In the first phase of the data evaluation process, EPA identified the chemicals that were present in both health effects and occurrence data sources. The Agency queried the data sources and found that approximately 7,300 chemicals, or about one-third of the chemicals, were present in both health effects and occurrence data sources. Occurrence was defined broadly to include production data and environmental occurrence data. EPA placed these chemicals in the chemical universe to be further evaluated for screening to the PCCL. EPA then examined the rest of the approximately 18,600 chemicals left in the initial universe more closely to determine whether they were found only in health effects data sources or only in occurrence data sources. EPA found that approximately 5,100 chemicals were in health effects data sources only. Many of these chemicals were biochemical compounds (e.g., amino acids, sugars, steroids); mixtures and natural products (e.g., coal tar, petroleum related substances, rocks, stone, wool); and other entries that were identified as unique "substances" in the data sources but were not chemicals (e.g., turbidity, boot and shoe manufacture, surgical implants). EPA evaluated these to identify which ones are chemicals of greatest toxicological concern. Many of the chemicals fell into the category of greatest toxicological concern due to their classification as carcinogens. This is described in the report entitled, "CCL 3 Chemicals: Screening to a PCCL" (USEPA, 2008 b). Through this process, a total of 122 chemicals with only toxicity data were added to the 7,300 chemicals already in the CCL Chemical Universe.

The chemicals found only in occurrence sources were also categorized. The approximately 13,500 chemicals with only occurrence data were a diverse group, comprised of many different types of chemicals. Data sources that provide the amount of an individual chemical that is manufactured and produced account for 70 percent (or 9,344) of the total. The remaining 30 percent of chemicals are from various other data sources (i.e., finished water, ambient water, environmental release, environmental fate and transport properties, and food additives). EPA grouped these chemicals by the type of occurrence data for further evaluation. These included the following groupings:

- Chemicals with Finished or Ambient Water Data
- Chemicals with Release Data
- Chemicals with High Production Volumes

EPA added 42 chemicals with finished or ambient water data to the Universe despite the lack of health effects information in the data sources because of their demonstrated occurrence in ambient or potable water. In addition, disinfection byproducts and water treatment additives were added to the Chemical Universe. While there may not have been measured occurrence data for these chemicals in the universe of data sources, they are considered to have "default" occurrence data because they are formed in, or intentionally added to, drinking water supplies.

EPA also added 36 chemicals with an environmental release data source (e.g., those on the Toxics Release Inventory or with pesticide application data) to the Chemical Universe even though they lacked health effects data.

The largest group of chemicals found only in occurrence data sources had only production information. These contaminants include: organometallics, elements, salts of the inorganic elements, salts of organic acids, natural product organics (including oils, fatty acids, sugars, intermediary metabolites), and mixtures (e.g., petroleum related compounds, hydrocarbons, and others). Over half of the production chemicals are compounds and/or complexes of elemental constituents; for example, there were about 750 sodium or potassium salt compounds alone. In these cases, health effects data are not available for the exact compound, but are generally available for other related compounds or the key ion or elemental constituent (e.g., sodium). Nearly all elements found in inorganic or organic salts are represented in the Universe by other compounds with both health effects and occurrence data. EPA found only 10 elements (excluding carbon, hydrogen, and oxygen, and the inert gasses krypton, neon, and xenon) that did not otherwise have representative compounds with health effects data in the Universe. EPA added these compounds (i.e., europium, gadolinium, gold, lanthanum, praseodymium, platinum, polonium, samarium, terbium, and yttrium) to the Universe. After evaluation of the characteristics of the chemicals with production data and the amounts produced on a yearly basis, and because the primary constituents (i.e., elements) of the chemicals were already in the Chemical Universe, EPA decided to move only those produced at greater than 1 billion pounds per year to the CCL Chemical Universe when they lacked health effects information.

EPA added a total of 269 chemicals with only occurrence data to the CCL 3 Chemical Universe. The rest of the substances included in the original data sources were not included in the Universe.

The initial selection process brought into the CCL Chemical Universe all substances from the data sources that met the defined selection criteria, described above. Upon further review, EPA found the Chemical Universe also contained regulated as well as unregulated compounds, mixtures, and some substances that were not really chemicals. To further refine the initial list, EPA removed chemicals with a national primary drinking water regulation. These contaminants are already regulated; thus, their inclusion in the CCL process is unnecessary and does not meet the statutory requirement for selection of the CCL. EPA removed 1,006 chemicals, which is more than the number of primary drinking water standards. This is because regulated contaminants can be found in many forms and because many contaminants are regulated as part of a class or group(s). For example, EPA removed approximately 780 radionuclides from the initial list, because they are regulated as alpha and beta emitters. Also removed were various salts of regulated elements, and entries for individual trihalomethanes, haloacetic acids, polychlorinated biphenyls and polyaromatic hydrocarbons that are regulated as a group. The Agency has determined that it is inappropriate to include aldicarbs (aldicarb, aldicarb sulfoxide, and aldicarb sulfone) and nickel on the CCL. These contaminants are subject to regulation under SDWA section 1412(b)(2) and thus are not part of the contaminant selection process specified under SDWA section 1412(b)(1). In response to an administrative petition from the manufacturer Rhone-Poulenc, the Agency issued an administrative stay of the effective date of the maximum contaminant levels (MCLs) for aldicarbs, and they never became effective. NPDWRs for nickel were promulgated on July 17, 1992 (57 *FR* 31776 (USEPA, 1992)), but the MCL was later vacated and remanded by the D.C. Court of Appeals in response to a joint motion by EPA and industry parties challenging the nickel MCL and MCLG. Because these contaminants are subject to separate regulatory consideration, EPA has not included them in the CCL process.

EPA also removed substances that are considered a mixture of chemicals. EPA defines a mixture in this case as a combination of two or more chemicals/items that are not defined as a unique substance. Examples of substances in this category include "chlorinated compounds, aliphatic alcohols with more than 14 carbon atoms (c>14), coal-tar-containing shampoo, petroleum-related substances, resin acids, and rosin acids." Undefined mixtures, such as "diesel engine exhaust" were also included in this group.

EPA also removed "non-chemically defined" entries from further consideration for the initial list. Examples include: "solar radiation, wood dust, surgical implants, and welding fumes." Some of these substances are present in the data sources because they have been evaluated for their potential to cause cancer.

The final step removed biological agents from the initial list. Contaminants in this category are biological organisms that are being evaluated as part of the CCL 3 Microbiological Universe. Entries for biological entities were uploaded from the universe of data sources from various health effects data sources and pesticide data sources. Many biological entities were also removed as non-chemically defined.

During this phase of the data evaluation, 1,717 chemicals or substances were removed from the initial Chemical Universe, leaving approximately 6,000 chemicals that were designated as the CCL 3 Universe. A list of the CCL Chemical Universe is provided in the docket. EPA further evaluated these 6,000 chemicals in the next key step of the process.

2. Screening from the Universe to a PCCL

The next step in the CCL selection approach involved narrowing the Universe of chemicals to a PCCL, as shown in Exhibit 1. EPA considered and built upon NDWAC recommendations that the screening process be based on a contaminant's potential to occur in public water systems and the potential for public health concern, to select those contaminants that should move to the PCCL for further evaluation. The screening approach:

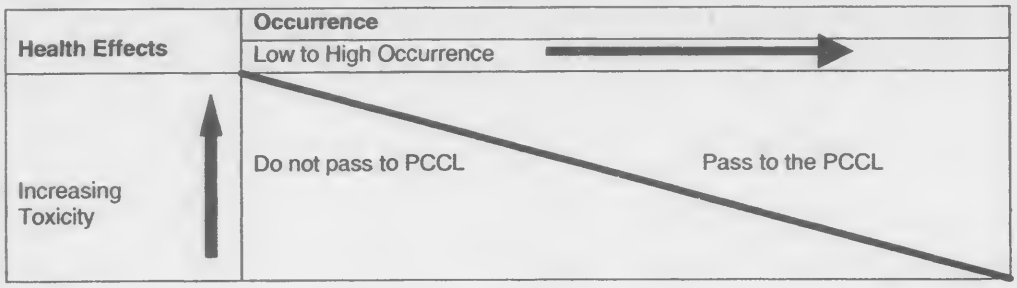
- Identifies chemicals that have relatively high toxicity with high potential to occur in PWSs;
- Identifies chemicals that have relatively high toxicity with minimal actual or potential occurrence in drinking water;
- Identifies chemicals that have high potential to occur in PWSs with relatively moderate toxicity; and
- Considers and uses as many of the available types of health effects and occurrence data identified in the data source evaluations as practical.

EPA compared the chemicals' health effects relative to their occurrence and developed analyses that specifically incorporate many types of available data into the screening criteria. The health effects information included quantitative, descriptive, or categorical information. Within each of these broad types of health effects information, there are multiple types of reported health related values from multiple sources. The health effects analyses conducted by EPA identified approaches to compare each of these data types and identified similarities among chemicals that could be used to define toxicity categories. The occurrence information also included many types of available data representative of a chemical's potential to occur in water. Occurrence data ranged from quantified detection in PWSs, to environmental release, to production data.

The basic framework EPA used in screening is shown in Exhibit 4. EPA categorized the CCL Chemical Universe contaminants by their toxicity along the vertical axis and by their occurrence on the horizontal axis. This allows for separation of chemicals into those that move to the PCCL based on their toxicity and occurrence properties (e.g., upper right in Exhibit 4) and those that are not further evaluated and remain in the CCL Chemical Universe (e.g., lower left in Exhibit 4).

EPA used a set of test chemicals to develop the screening criteria. This set of chemicals included regulated and unregulated chemicals that provided comprehensive information on health effects and occurrence in finished and/or ambient water as well as environmental release and production volume. EPA then used these criteria to select chemicals for the PCCL for further consideration. The following sections summarize how EPA developed the screening criteria by evaluating the available data for chemicals in the Universe, using the framework (Exhibit 4) and the test chemicals. A more detailed discussion is provided in the support document entitled, "CCL 3 Chemicals: Screening to a PCCL" (USEPA, 2008 b).

Exhibit 4: Partition for Screening the Universe



a. Health Effects Data Elements

EPA evaluated the toxicity information and health effects data compiled from the data sources in the Universe and these data varied greatly. Some of these data are quantitative (e.g., RfD, LOAEL, NOAEL, LD_{50}) and some are descriptive (e.g., cancer classifications or predictions). EPA designed the screening process to accommodate both types of health effects data.

The quantitative toxicity elements and values available in the Universe included the following:

- RfDs and equivalent (RfD-eq): RfDs, Minimum Risk Levels (MRLs) from ATSDR, Tolerable Daily Intakes (TDIs) from the World Health Organization (WHO), and Public Health Goals (PHGs) from California EPA. A reference dose is an estimate (with uncertainty spanning perhaps an order of magnitude) of a daily oral exposure to the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious effects during a lifetime. There are slight differences among Agencies in the methodologies used for some of the RfD equivalents.
- NOAELs—No Observed Adverse Effect Levels. The NOAEL is the highest dose evaluated in a study or group of studies that does not have a biologically significant adverse effect on the species evaluated as compared to controls.
- LOAELS—Lowest Observed Adverse Effect Levels. The LOAEL is the lowest dose evaluated in a study or group of studies that has a biologically significant adverse effect on the species evaluated as compared to the controls.
- TD_{50}s—Tumorigenic dose 50. The dose-rate which if administered chronically for the standard life-span of the species will have a 50 percent probability of causing tumors at some point during that period.
- MRDD—Maximum Recommended Daily Dose. Recommendations for the maximum adult daily therapeutic doses for pharmaceuticals.
- LD_{50}s—Lethal dose 50; an estimate of a single dose that is expected to cause the death of 50 percent of the exposed animals; it is derived from experimental data.

EPA used descriptive cancer data to group data elements into toxicity categories that provide gradation based upon the strength of the data. Sources for the descriptive cancer data included:

- U.S. EPA Cancer Groupings.
- IARC Cancer Groupings.
- NTP weight-of-evidence findings from cancer bioassays.
- National Cancer Institute (NCI) weight-of-evidence findings from cancer bioassays.
- EPA Water Disinfection By-Products with Carcinogenicity Estimates (DBP-CAN) groupings based on carcinogenic potential derived from Quantitative Structure Activity Relationship (QSAR) projections.

EPA divided the chemicals in the Universe into five toxicity categories for screening based upon the distribution of the toxicity value for each type of quantitative data element and/or the qualitative information on cancer weight-of evidence. The five toxicity categories are designated 1 through 5, with Toxicity Category 1 containing chemicals in the most toxic grouping and Toxicity Category 5 the least toxic grouping.

Based upon the distribution of the chemicals for each quantitative data element, EPA selected ranges of toxicity values for each toxicity category that differed based upon the type of data element. For example, the range of toxicity values that place a LOAEL in Toxicity Category 1 differs from the values used for a LD_{50}. Exhibit 5 displays the ranges for each data element and their respective Toxicity Categories.

Additional information which describes how EPA performed the analyses to select the toxicity categories is described in the document entitled, "CCL 3 Chemicals: Screening to a PCCL" (USEPA, 2008 b).

EXHIBIT 5.—POTENCY MEASURES FOR UNIVERSE DATA ELEMENTS PARTITIONED BASED ON TOXICITY

[mg/kg/day or mg/kg]

	RfD	NOAEL	LOAEL	MRDD	LD_{50}
Toxicity Category 1	<0.0001	<0.01	<0.01	<0.01	<1
Toxicity Category 2	0.0001–<0.001	0.01–<1	0.01–<1	0.01–<1	1–<50
Toxicity Category 3	0.001–<0.05	1–<10	1–<10	1–<10	50–<500
Toxicity Category 4	0.05–<0.1	10–<1000	10–<1000	10–<1000	500–5000
Toxicity Category 5	>0.1	>1000	>1000	>1000	>5000

EPA partitioned the cancer-related data elements in the Universe into the Toxicity Categories as shown in Exhibit 6. The cancer data placed chemicals in only the three highest Toxicity Categories. EPA did not use quantitative measures of dose-response for carcinogenicity in the screening criteria because more chemicals have categorical data and can be analyzed using this descriptive data than by cancer slope factors. In addition, EPA

did not use descriptors indicating lack of carcinogenic potential or insufficient data to determine carcinogenic potential in categorizing chemicals because those descriptors apply only to the cancer endpoint and do not consider noncancer effects associated with exposure to the chemical.

EXHIBIT 6.—PARTITIONING OF CANCER DATA BASED ON TD_{50} VALUES AND WEIGHT-OF-EVIDENCE DESCRIPTORS

	TD_{50}	EPA	IARC/HC	NTP	NCI	DSS-Tox
Toxicity Category 1**.	<0.1	Group A; Human Carcinogen.	Group 1	CE 2 species/2 sexes; or 2 species; or 2 sexes.	P 2 species/2 sexes; or 2 species; or 2 sexes.	H.
Toxicity Category 2	0.1–100	Groups B1 and B2; likely carcinogens.	Group 2A	Combinations of CE, SE, EE, and NE.	Combinations of P, E and N.	HM.
Toxicity Category 3	>100	Group C; Suggestive evidence of carcinogenicity.	Group 2B	Combinations of SE, EE, and NE.	Combinations of E and N.	M and LM.

** Cancer data placed chemicals in only the three highest Toxicity Categories.
CE = clear evidence, SE = some evidence, EE = equivocal evidence, NE = no evidence.
P = positive, N = Negative, E = equivocal.
H = high probability, HM = high to medium probability, M = medium probability, LM = medium to low probability.

EPA chose a conservative approach in the screening process to categorize each chemical's toxicity and evaluated all the available health effects dose-response and categorical data elements for a given chemical. Chemicals were assigned to the highest toxicity category indicated after an evaluation of all the available data. Accordingly, if a chemical had just one data element that places it in Toxicity Category 1, it was categorized as such even if some of the other data elements for that same chemical may place it in a lower toxicity category. For example, if a chemical is classified as a 2A carcinogen by IARC, it was placed in Toxicity Category 2 using the descriptive cancer data even if a quantified LOAEL from a different study places it in Toxicity Category 3.

b. Occurrence Data Elements

EPA evaluated the occurrence data elements for each chemical and placed them on the horizontal axis of the screening table. In assessing the data, EPA found that the data elements that represent a chemical's potential to occur in drinking water vary greatly. EPA's goal was to determine which data elements best represented the potential to occur in drinking water. EPA considered and evaluated data elements in the following categories:

- Finished Water—measures of concentration and frequency of detections.
- Ambient Water—measures of concentration and frequency of detections.
- Total Releases in the Environment—pounds per year and number of States.
- Pesticide Application Rates—pounds per year and number of States.
- Production volume—pounds per year.

In addition to evaluating quantitative data elements listed above, EPA also considered chemicals with descriptive data based upon their likelihood of occurring in drinking water. Examples of descriptive occurrence data elements include characterization as a disinfection byproduct or a drinking water treatment chemical.

EPA used the following hierarchal approach to select the occurrence data element used to screen a chemical: Finished Water or Ambient Water > Environmental Release Data > Production Data.

The highest data elements in the hierarchy are the finished and ambient water data; the lowest, the production data. Environmental release data from the Toxics Release Inventory (TRI) and pesticide application amounts occupy the middle position in the hierarchy.

EPA also decided that when multiple data values exist for the chemicals within a given component of the hierarchy, the most conservative data value is used. For example, in the case of a chemical that has finished water data and ambient water data, EPA selected the highest reported concentration as the occurrence value used in screening.

EPA obtained the finished water data elements from the National Contaminant Occurrence Database (NCOD), the Unregulated Contaminant Monitoring (UCM) Rounds 1 and 2, the National Inorganic Radionuclides Survey (NIRS), the Unregulated Contaminant Monitoring Regulation (UCMR) monitoring, the Information Collection Rule database for disinfection byproducts, the U.S. Department of Agriculture (USDA) Pesticide Data Program (PDP), and the U.S. Geological Survey (USGS) Pesticides Pilot Monitoring Program (PPMP). These sources included data elements such as percent samples with detections, percent drinking water systems with detections, mean and/or median detected concentrations, and highest observed concentrations.

EPA obtained ambient water values from the USGS National Water Quality Assessment Program (NAWQA), the USGS Toxics Substances Hydrology program's National Reconnaissance of Emerging Contaminants (NREC) and related studies, and the PPMP. These sources included data elements such as percent samples with detections, percent sites with detections, mean and/or median detected concentrations, and highest observed concentrations.

The environmental release data are those reported for 2004 from the TRI and the National Pesticide Use Database, developed by the National Center for Food and Agricultural Policy (NCFAP). The available environmental release data elements include: total releases to the environment (lbs/yr), number of States with releases, pesticide total mass active ingredient applied nationally (lbs/yr), and number of States with pesticide application. EPA chose to use the pounds released per year into the environment for screening because the mass applied to the environment was more directly related to a potential concentration in water than the number of States where a chemical is released or applied.

EPA used the Toxic Substances Control Act (TSCA) chemical production volume ranges reported under the Chemical Update System/Inventory Update Rule (CUS/IUR) to assess production volume. EPA selected the most recent year of data available for each particular chemical. CUS/IUR reports chemical production volume ranges rather than as exact values of

release, and provides production data for all chemicals produced in volumes exceeding 10,000 lbs/yr. The production data are reported in 5 categories that range from less than 10,000 lbs/yr to greater than 1 billion lbs/yr. Therefore, EPA chose to use those ranges as the occurrence subdivisions for the production data.

The occurrence data were grouped by powers of 10 and arrayed from low to high across the horizontal axis of the screening table (Exhibit 4). The document entitled "CCL 3 Chemicals: Screening to a PCCL" (USEPA, 2008b) describes the analyses in greater detail.

In some cases, disinfection byproducts and water treatment chemicals lacked quantitative data elements in the Universe. However, both groups have a strong potential to be present in drinking water. EPA moved chemicals in these two categories forward to the PCCL for further evaluation even when limited health effects and/or occurrence information were available.

c. Selection of the PCCL

The last step in the screening process used the intersections between health effects and occurrence data elements in the screening table (Exhibit 4) to establish the PCCL selection line. As noted above, the health data elements were grouped by the 5 toxicity categories with the element showing the highest potency determining placement in the screening table. EPA selected the highest available data element in the occurrence hierarchy to determine placement of a chemical on the horizontal axis in the screening table. Because the chemicals were evaluated using a hierarchical approach for their occurrence elements, EPA developed separate criteria for each of the occurrence elements, and used the placement of a group of test chemicals that had all or nearly all of the occurrence data elements, to establish the position of the PCCL selection line. The test chemicals were selected from regulated and past CCL chemicals. Each had data to illustrate whether it was or was not of concern as a drinking water contaminant.

As a secondary analysis, EPA evaluated existing Drinking Water Equivalent Levels (DWELs) to confirm whether they would make the PCCL. The DWELS were derived from the lower RfD potency for each of the RfD Toxicity Categories. The DWEL (mg/L) is calculated from the RfD in mg/kg/day by multiplying the RfD by an adult body weight of 70 kg and dividing by a drinking water intake of 2 L/day (rounded to one significant figure).When comparing the position of the set of DWELs to the PCCL selection line, all four toxicity categories would be put on the PCCL. This analysis supports the position of the PCCL selection line for chemicals with finished or ambient water concentration data.

EPA also used the test chemicals to determine the PCCL selection line for the other occurrence data elements—total releases to the environment (i.e., TRI, pesticide application data) and production data. For example, the test chemicals were placed in Exhibit 4 based on their release data to guide the placement of the line that separated the "pass to the PCCL" chemicals from the "do not pass to the PCCL" chemicals. In general, the PCCL selection line was positioned so that regulated and most prior CCL chemicals would be selected for the PCCL.

EPA also analyzed the test chemicals with respect to occurrence, releases, and production data. The test data fit well for the former two categories. For the latter, the fit was not as good so EPA chose to set the PCCL selection line at the point where all chemicals produced at greater than 100 million pounds per year pass to the PCCL even if they fall in the lowest toxicity category.

The criteria for moving a chemical with finished or ambient water, environmental release, and production data to the PCCL are displayed in Exhibit 7.

EXHIBIT 7.—CRITERIA FOR A CHEMICAL TO PASS SCREENING TO THE PCCL

Health effects	Occurrence (by data type)		
	Finished/ambient water concentrations	Release amount (per year)	Production volume (per year)
Toxicity Category 1	All Concentrations	All Amounts	All Amounts.
Toxicity Category 2	≥1 µg/l	≥10,000 lbs/yr	≥500,000 lbs/yr.
Toxicity Category 3	≥10 µg/l	≥100,000 lbs/yr	≥10 M lbs/yr.
Toxicity Category 4	≥100 µg/l	≥1 M lbs/yr	≥50 M lbs/yr.
Toxicity Category 5	≥1000 µg/l	≥10 M lbs/yr	≥100 M lbs/yr.

EPA added DBPs and drinking water additives that lacked quantitative occurrence data but fell in the Toxicity Category 1 or Toxicity Category 2 groupings to the PCCL because of their high probability for being present in disinfected and treated drinking water.

The screening process provides a data-driven, objective, and transparent process for selecting the PCCL from the Universe. All Toxicity Category 1 chemicals (i.e., most toxic) were captured regardless of their occurrence category. The occurrence threshold required for the PCCL selection became less inclusive as the contaminant toxicity decreased. The screening of the CCL 3 Universe resulted in the selection of 532 chemical contaminants for the PCCL from the approximately 6,000 chemicals that were screened. The categorical summary of chemicals that passed the screening is illustrated in Exhibit 8. A complete chemical PCCL list can be found in Appendix B of the document entitled, "CCL 3 Chemicals: Screening to a PCCL" (USEPA, 2008b). The 532 PCCL chemicals were further scrutinized as part of the next key step in the process. Some of the contaminants on the PCCL had limited data available for the scoring protocols and could not be run through the models. The 32 contaminants that had limited data identified in the appendixes to the "Classification of the PCCL to the CCL" support document (EPA 2008c) and will remain on the PCCL until new data are identified for further evaluation.

EXHIBIT 8.—SUMMARY OF TOTAL CHEMICALS THAT PASSED SCREENING FOR PCCL BY SCREENING CATEGORIES

Toxicity categories	Finished or ambient water concentration	Pesticide app	Total releases	Production volume	Totals
Toxicity Category 1	29	4	56	38	127
Toxicity Category 2	33	26	32	61	152
Toxicity Category 3	36	31	21	66	154
Toxicity Category 4	5	4	10	63	82
Toxicity Category 5	0	0	0	17	17

3. Using Classification Models To Develop the CCL 3

The 532 PCCL chemicals were further scrutinized as part of this key step in the process by using classification models as tools to aid in the selection of the draft CCL 3. As experience is gained, the EPA expects to modify and improve the development of the classification process for future CCLs.

From the inception of the development of the CCL classification process, EPA intended to use classification models as a decision support tool. EPA envisioned that, after testing and evaluation, models would be used to process complex data in a consistent, objective, and reproducible manner and provide a prioritized listing of candidate contaminants for the last stage of the CCL process—an expert review and evaluation. Model application also would help EPA focus resources for the expert review and evaluation of the highest priority potential contaminants.

An overview of the classification model approach used to further evaluate chemicals on the PCCL is described in the following sections. A detailed discussion of the process is provided in a document entitled, "Contaminant Candidate List 3 Chemicals: Classification of the PCCL to the CCL" (USEPA, 2008c). The development of this classification process involves the following steps:

- Development of the Attribute Scoring Protocols.
- Development of the Training Data Set.
- Application of the Classification Models.
- Evaluation of Classification Model Output and Selection of the CCL.

To use models to evaluate and classify the PCCL contaminants for listing on the CCL, EPA needed to develop methods to interrelate the important measures (i.e., attributes) that represent a contaminant's health effects and potential for occurrence in drinking water. Four attributes were selected: Potency, severity, prevalence, and magnitude. Protocols were developed for scoring each attribute.

EPA also tested and evaluated the results of several classification models to determine which ones might provide the best decision support tools. To make this evaluation, EPA developed a chemical data set and used the data set to "train" the classification models. The selected models were utilized to process the data for the PCCL chemicals and provide a prioritized listing of candidate contaminants for the expert review and evaluation.

a. Development of the Attribute Scoring Protocols

EPA used attributes to characterize different chemicals on the basis of similar qualities or traits. These qualities or traits represent the likelihood of occurrence or potential for adverse health effects of each contaminant. Throughout the process of evaluating the attributes EPA recognized that a wide range of data elements would have to be used for each attribute to characterize chemicals on the PCCL. To evaluate PCCL chemicals with differing types of occurrence and health effects data as potential CCL contaminants, one must be able to establish consistent relationships among the different types of data that represent measures of the attributes. If the same data were available for all contaminants, the comparison and prioritization of candidates would be less complex. To consistently apply the best available data for PCCL chemicals, EPA normalized the different types of data into scales and scoring protocols that accept a variety of input data, apply a consistent framework, and compare different types of data. The following sections describe how EPA developed the scales and scoring protocols for the health effects and occurrence attributes.

i. Health Effects Attributes

Potency and severity are the attributes used to describe health effects. EPA defines potency as the lowest dose of a chemical that causes an adverse health effect and severity is based on the adverse health effect associated with the dose used to define the measure of potency. In other words, potency was scored on the dose that produced the adverse effect and severity was scored based on the health-related significance of the adverse effect (*e.g.*, from dermatitis to organ effects to cancer). These two attributes are interrelated, in that the severity is linked to the measure of potency.

The following toxicological parameters were used to evaluate potency:

- Reference Dose (RfD) or equivalent.
- Cancer potency (concentration in water for 10^{-4} cancer risk).
- No-Observed-Adverse-Effect Level (NOAEL).
- Lowest-Observed-Adverse-Effect Level (LOAEL).
- Rat oral median Lethal Dose (LD_{50}).

EPA developed a "learning set" of about two hundred chemicals to calibrate the potency scoring protocols. Once the data for the learning set of chemicals was collected, EPA arrayed and graphically displayed the data to analyze their range and distribution. EPA selected a distribution based on logarithms (base 10) of the toxicity parameters rounded to the nearest integer because it provided a spread of the chemical toxicity parameters across the range and the curve was roughly log-normal.

EPA used a log-based distribution to establish a potency scoring equation for each toxicity parameter. This was accomplished by assigning the most frequent (modal) value in each distribution a score of 5 on a 10 point scale. When the toxicity parameter was one log more toxic than the modal value, a score of 6 was assigned. Similarly, when the parameter was one log less toxic than the modal value a score of 4 was given, and so on. EPA developed an equation for each toxicity parameter that equated the modal value to a score of 5 and calculated the potency score. Because the modal rounded log differed for the different measures of toxicity, it was necessary to use a different equation for each to normalize the mode to a score of 5. The

resultant equations are summarized in Exhibit 9.

EXHIBIT 9.—SCORING EQUATIONS FOR POTENCY

RfD Score = 10 − (Log_{10} of RfD + 7).
NOAEL Score = 10 − (Log_{10} of NOAEL + 4).
LOAEL Score = 10 − (Log_{10} of LOAEL + 4).
LD_{50} Score = 10 − (Log_{10} of LD_{50} + 2).
10^{-4} cancer risk Score = 10 − (Log_{10} of the 10^{-4} cancer risk + 6).

For distributions that spanned more than 5 orders of magnitude above or below the mode, scores for the tails of the distribution were truncated at 1 and 10. Conversely, for distributions that did not span 5 full orders of magnitude above and below the mode, not all scores between 1 and 10 were used. For example, the distribution of the 10^{-4} values for cancer risk was skewed, with values up to 5 orders of magnitude above the modal value (more potent carcinogens) but only 2 orders of magnitude below the mode (less potent carcinogens). This meant that the lowest potency score for this toxicity parameter was a "3."

EPA tested the scoring process by using a subset of contaminants with values from multiple data elements considered in the process. In the testing of the potency scoring process, EPA scored all of the chemicals in the learning set for each toxicity parameter to examine the consistency across scores for the non-cancer measures of potency. EPA evaluated the agreement of non-cancer scores across the RfD, NOAEL, LOAEL and LD_{50} inputs and found the scores for any given compound to be generally consistent across parameters. Because of the general consistency among scores, EPA determined that a hierarchy of RfD> NOAEL> LOAEL> LD_{50} would be used in the scoring of potency. This hierarchy gives preference to the potency value with the richest supporting data set (the RfD—or equivalent values) and gives the lowest ranking to the LD_{50} because it is a measure of acute rather than chronic toxicity. If data are available for both the cancer and noncancer endpoints, the higher of the cancer or noncancer potency is selected and the critical effect of the higher measure of potency is used to score the severity.

Severity refers to the relative impact of an adverse health affect. Just as toxicity increases with dose, the severity of the observed effect also increases. A low dose effect could be a simple increase in liver weight while the same chemical at a higher dose could cause cirrhosis of the liver. For consistency, the measure of severity that was used for scoring the PCCL chemicals was the effect or effects seen at the LOAEL. Restricting severity scores to the effects at the LOAEL ties them to the data used to derive the potency score.

The severity measures used to score the PCCL chemicals differ from those used for potency, prevalence, and magnitude because they are descriptive rather than quantitative. Accordingly, they are less amenable to automation and often require more scientific judgment in their application. To guide scoring for severity, EPA developed the nine-point scale displayed in Exhibit 10, and a compendium of nearly 250 descriptions of critical effects grouped by their severity scores (*e.g.*, "Chronic irritation without histopathology changes" equals a score of 3).

EXHIBIT 10.—FINAL NINE-POINT SCORING PROTOCOL FOR SEVERITY

Score	Critical effect	Interpretation
1	No adverse effect.	
2	Cosmetic effects	Considers those effects that alter the appearance of the body without affecting structure or functions.
3	Reversible effects; differences in organ weights, body weights or changes in biochemical parameters with minimal clinical significance.	Transient, adaptive effects.
4	Cellular/physiological changes that could lead to disorders (risk factors or precursor effects).	Considers cellular/physiological changes in the body that are used as indicators of disease susceptibility.
5	Significant functional changes that are reversible or permanent changes of minimal toxicological significance.	Considers those disorders in which the removal of chemical exposure will restore health back to prior condition.
6	Significant, irreversible, non-lethal conditions or disorders	Considers those disorders that persist for over a long period of time but do not lead to death.
7	Developmental or reproductive effects	Considers those chemicals that cause developmental effects or that impact the ability of a population to reproduce.
8	Tumors or disorders likely leading to death	Considers chemical exposures that result in a fatal disorder and all types of tumors.
9	Death.	

Severity scores 1 through 6 represent a progression in the severity of the observed effect. Severity score 7 is used for all studies where the effect observed is a reproductive and/or developmental effect allowing the Agency to track the chemicals that pose developmental or reproductive concerns consistent with the 1996 SDWA. A severity score of 8 was used to track all cases where cancer is the basis for the potency score.

ii. Occurrence Attributes

EPA used prevalence and magnitude to describe the potential to occur in drinking water. Prevalence measures how widespread the occurrence of the contaminant is in the environment or how widely the contaminant may be distributed. The prevalence measure indicates the percent of public water systems or monitoring sites across the nation with detections, number of States with releases, or the total pounds produced nationally. Magnitude relates to the quantity of a contaminant that may be found in the environment. The magnitude measures include the median concentration of detections in water or the total pounds of the chemical released into the environment. In most cases the same data element (*e.g.*, detections in drinking water or amount released into the environment) could be used to determine the prevalence, based on the spatial distribution and magnitude based on the amounts. However, where production data were used to determine prevalence, there was no corresponding direct measure of magnitude, so persistence and mobility data were used as surrogate indicators of potential magnitude.

Production/persistence and mobility data are assigned the lowest level in the hierarchy of data available for prevalence and magnitude. Persistence-mobility is determined by chemical

properties that measure or estimate environmental fate characteristics of a contaminant and affect their likelihood to occur and persist in the water environment. Data sources that could provide occurrence data ranged from direct measure of concentrations in water to annual measures of environmental release or production. EPA compiled a second subset or learning set of 207 chemicals, with available data for all of the occurrence attribute data elements that measured prevalence and each of the data elements that measured magnitude, to calibrate protocols for prevalence and magnitude.

The data available for the prevalence attribute consisted of measurements of a contaminant's occurrence across the United States. The prevalence measures have finite ranges such as zero to 100 percent of samples/sites or 1 to 50 States depending on the reporting requirements of the available data source. Accordingly, the scaling of scores for prevalence focused on establishing appropriate groupings of the number of sites or States impacted across the 1 to 10 scoring scale.

The relationship between production or even environmental release data and the actual occurrence in drinking water is complex. Where actual water measurements are available, they are the preferred data element to score prevalence because they are the most direct measures of occurrence in drinking water. EPA selected the following hierarchy for scoring prevalence:

- Percent of PWSs with detections (national scale data).
- Percent of ambient water sites or samples with detections (national scale data).
- Number of States reporting application of the contaminant as a pesticide.
- Number of States reporting releases (total) of the chemical.
- Production volume in lbs/yr.

The production data provide the pounds produced annually of a chemical product in the United States. To some extent, this production rate represents the commercial importance of the chemical, so EPA interpreted the high production tonnage as a likely indication of wide use of a commodity chemical and used this information to score prevalence. For example, a chemical produced at a billion lbs/yr is more likely to be used and released more widely than a compound produced at only 10,000 lbs/yr.

Magnitude represents the quantity of a contaminant that may be in the environment. The data sources that provided the first four levels of the prevalence hierarchy provided direct measurements of water and environmental release that could be used to score magnitude. However, the production categories did not supply an appropriate measure for magnitude. EPA used the persistence and mobility for chemicals with only production data as the basis of the magnitude attribute.

To keep the process straightforward, EPA used one scale for all water concentration data. EPA distributed scores across the range of values so that organic contaminants could receive high scores as well as the inorganic contaminants (IOCs). Comparisons and adjustments were made until there was a reasonable distribution of the scores for organic and inorganic contaminants by using a semi-logarithmic scale. EPA selected the single scale approach and this is discussed in more detail in the report entitled "CCL 3 Chemicals: Classification of the PCCL to the CCL" (USEPA, 2008 c).

When developing the calibration scales for the release data, the ranges of data were similarly arrayed using a scale based on half-log units with a distribution of scores that reflected the distribution of the data in the learning set.

EPA based the persistence and mobility scores on chemical and physical properties combined with environmental fate parameters. Persistence and mobility act as measures of potential magnitude because both fate (i.e., persistence) and transport (i.e., mobility) affect the amount of a contaminant to be found in water. The length of time a chemical remains in the environment before it is degraded (persistence) affects its concentration in water. Similarly, the mobility of a chemical, or its ability to be transported to and in water, affects its potential to reach and dissolve in the source waters, and thus, the ultimate concentration of the chemical in the water.

EPA considered a number of data elements to measure the mobility of a chemical in the environment. The physical/chemical parameters that were chosen for the CCL process are:

- Organic Carbon Partition Coefficient (K_{oc})
- Octanol/Water Partition Coefficient (K_{ow})
- Soil/Water Distribution Coefficient (K_d)
- Henry's Law Coefficient (K_H)
- Solubility

The first 4 measures of mobility represent the equilibrium ratio for the partitioning of the contaminant from one medium to another: K_{oc} (soil/sediment organic carbon: water), K_{ow} (octanol: water), K_d (soil/sediment: water) and Henry's Law Coefficient (air: water). K_{oc}, K_{ow} and K_d are sometimes expressed as logs of the original measurements. The measures of persistence reflect the time the chemical will remain unchanged in the environment. Persistence is reflected in the following measures of environmental fate:

- Half-Life
- Measured Degradation Rate
- Modeled Degradation Rate

Each of the mobility and persistence data elements listed above are presented in hierarchical order, with the most desirable at the top (i.e., the first data to be used if available).

As was the case with prevalence, EPA used a hierarchy in scoring magnitude. The hierarchy uses finished water occurrence data if available, and if not, the highest available element in the hierarchy of finished water data > ambient water data > environmental release data > persistence and mobility data. The data elements used in scoring magnitude follow:

- Median value of detections from finished water systems (PWSs) (national scale data)
- Median value of detections from ambient water sites or samples (national scale data)
- Amount of pesticide applied (annual, in pounds)
- Amount of total releases (annual, in pounds)
- Persistence and mobility data

EPA developed attribute scoring protocols through a step-wise process of data selection, data analysis, calibration of scales, and evaluation of the functionality of the scores in PCCL to CCL decision-making. This is discussed in more detail in the report entitled "Contaminant Candidate List 3 Chemicals: Classification of the PCCL to the CCL" (USEPA, 2008 c). EPA used the attribute protocols to normalize the data for the PCCL chemicals and develop a set of scores for the four attributes that are the input into the models. By normalizing the data elements, EPA developed a process that can use different kinds of data and information (e.g., quantitative and descriptive) to develop input to the models and provide a relative score for potential contaminants using the attribute scores.

b. Training Data Set for the Classification Models

The training data set (TDS) for chemicals is the set of data used to train

(or teach) the classification models to mimic EPA expert list-not list decisions for PCCL chemicals. EPA compiled this data set in addition to the two learning sets to represent the types of chemicals likely to move forward to the PCCL. This data set also represents the range of possible attribute scores and listing decisions needed to train and calibrate the classification models. The TDS used to train the models for CCL 3 was comprised of 202 discrete sets of attribute scores for chemicals and consensus list-not list decisions made by a team of EPA subject matter experts.

Classification models use statistical approaches for pattern recognition and derive mathematical relationships among input variables (e.g., measurements or descriptive data) and output from a TDS. EPA used classification models to develop a relationship between the contaminant attribute scores (input variables) and the classification of these contaminants into list-not list categories (output). EPA subject matter experts familiar with the technical aspects of the attribute data and the selection of drinking water contaminants for listing and regulation made the list-not list decisions for the TDS. EPA then applied the models to the PCCL to predict likely list-not list decisions.

EPA considered the following key factors in developing the training data set:

- Selection of contaminants representing a range of outcomes and decisions likely to be encountered in developing a CCL;
- A variety of input data ensuring adequate coverage of attribute scores and combinations of scores;
- Chemicals that, when present in drinking water, would present a meaningful opportunity for public health improvement if regulated; and
- Contaminants that would likely be selected for the PCCL.

The TDS used for training the classification models consisted of 202 combinations of attribute scores and the decisions made by EPA experts. The TDS included some of the contaminants from the learning sets used in developing the scoring protocols for toxicity and occurrence. It also included additional contaminants to meet the key factor requirements described above. The set of known chemicals chosen for the TDS was supplemented with a set of attribute scores and decisions that were selected to balance the range of scored attributes the classification model would need to evaluate as described further below.

Initially, EPA selected "data rich" contaminants from among regulated contaminants and previous CCLs because they had a range of readily available occurrence and health effects information. EPA drinking water subject matter experts and stakeholders reviewed the initial list of contaminants and identified additional candidates for the TDS. This initial selection process identified 51 chemical contaminants. Subsequently, EPA randomly chose 50 contaminants from chemicals in the CCL 3 Universe with high health effects potency values and accompanying occurrence data because they represented contaminants likely to make it to the PCCL. The addition of these 50 contaminants resulted in 101 contaminants with data to score attributes.

The performance of the classification models using the initial TDS gave an indication of gaps in the possible attribute space that the set of 101 TDS contaminants did not adequately cover. This led EPA to add the sets of possible attribute scores to the TDS based on Latin hypercube sampling (NIST, 2006; *http://www.itl.nist.gov/div898/handbook/glossary.htm#LHC).* Using this approach, EPA added 101 specific combinations of attribute scores to fill in gaps in the space defined by total possible attribute scores and improve the performance of the models. This set of 202 scores and decisions ensured good coverage of both "list" and "not list" outcomes and became the TDS. Models trained with the TDS with 202 decisions had greater agreement with EPA subject matter experts than those trained with the TDS of 101 contaminants.

List-not list decisions were a key component of the TDS. EPA subject matter experts made list-not list decisions as individuals and as a group, based on attribute scores and based on data that had not been converted to attribute scores (actual or raw data). The development of the list-not list decisions was an iterative process that incorporated revisions to the attribute scoring protocols as experience was gained by the EPA experts. EPA resolved differences between the decisions based on the scored attributes and the raw data by revising the scoring protocols based on the EPA experts' experience to improve the correlation of decisions based on scores to those based on raw data.

EPA subject matter experts reviewed and evaluated the health effects and occurrence data for each contaminant. Each individual reviewer made decisions about how to classify the contaminant and then met as a group to discuss their decisions. Early in the process the reviewers recognized that clear list or not-list decisions could easily be made for some contaminants, but not for other contaminants. For the chemicals where the decision whether to list contaminants was not clear, two categories were added to the analyses. The categories of List? (L?) or Not List? (NL?) allowed the group to identify chemicals that were close to the boundary for a List-Not List decision. That is L? signifies that the decision is leaning towards listing but with some uncertainty, and NL? signifies that the decision is leaning towards not listing but with some uncertainty. These additional two categories were incorporated into the evaluation and model training process.

The EPA subject matter experts also reached a consensus decision for each contaminant. This consensus decision was used to train the models. This is discussed in more detail in the report entitled "Contaminant Candidate List 3 Chemicals: Classification of the PCCL to the CCL" (USEPA, 2008c).

c. Evaluation of Classification Models

EPA identified several different models for possible use in selecting contaminants from the PCCL for the CCL: Artificial neural networks, classification decision trees, linear models, and multivariant adaptive regression splines. EPA evaluated the classification models in a two-step process. The first step was the evaluation and selection of models from within each of the model classes that best predicted the consensus decisions of the subject matter experts. The second step was the evaluation of the performance of the best models selected from each class (USEPA, 2008c).

EPA evaluated models based on the 4 attributes that the model was able to consider, the types of relationships or mathematical functions that the model utilized, and the model's ability to predict classifications of the TDS. The iterative training process minimized the model's predictive error, thereby reducing incorrect model predictions. EPA also evaluated the impact of the attributes used by the models and the effects of missing data on the performance of the models during the various stages of development.

EPA evaluated the performance of five models. Three models, Artificial Neural Network (ANN), Quick, Unbiased and Efficient Statistical Tree (QUEST), and Linear Regression demonstrated consistent performance when trained and evaluated with the TDS. The classification models were assessed and compared with respect to:

- The number of correct and incorrect classifications for the 202 TDS contaminants.
- The number of "large" misclassifications (off by more than one category).
- The weighted sum of TDS classification errors.
- Ability to identify intermediate classifications.
- Consistent behavior (e.g., no decreasing classification as attribute scores increase).

This is discussed in more detail in the report entitled "Contaminant Candidate List 3 Chemicals: Classification of the PCCL to the CCL" (USEPA, 2008c).

d. Application and Use of Model Results

From the inception of the development of the CCL classification process, EPA intended to use classification models as decision support tools. It was envisioned that the models would be used to process complex data in a consistent, objective, and reproducible manner and provide a prioritized listing of contaminants, allowing EPA to focus resources on the expert review and evaluation of the highest priority potential contaminants. The ANN, Linear, and QUEST models are three different classes of models, with three different mathematical approaches, yet they all provided similar results and logical determinations. EPA explored simple ways to combine the results of all three models, to capture both agreement among models and unique results. Both a straightforward, additive approach, and a collective, rank-order approach were utilized to provide a prioritized listing of contaminants to be considered further and evaluated for possible inclusion on the draft CCL 3.

e. Model Outcome and Expert Evaluation

In the last step of the process, the chemicals on the PCCL were scored for their attributes and evaluated by the three models. Some of the contaminants on the PCCL had limited data available for the scoring protocols and could not be run through the models. The 32 contaminants that had limited data are identified in the appendixes to the "Classification of the PCCL to the CCL" support document (EPA 2008c) and will remain on the PCCL until new data are identified for further evaluation. As part of the evaluation of model output, EPA formulated several post-model refinements that were added to the CCL selection process. Exhibit 11 illustrates the results of the model output for the PCCL contaminants. The PCCL consisted of chemicals with variable health effects data, ranging from reference doses (RfD) to Lethal Dose 50s (LD_{50}), and occurrence data ranging from measured water concentration data from Public Water Systems (PWS) to production volume data.

EXHIBIT 11.—MODEL RESULTS FOR THE PCCL CHEMICALS

3-Models decision	% of PCCL	Total # PCCL	Finished or ambient water	Release	Production
L	9	44	3	24	17
L–L?	12	58	9	29	20
L?	33	163	26	64	73
NL?–L?	6	30	6	11	13
NL?	28	139	29	28	82
NL?–NL	4	20	7	9	4
NL	9	46	21	7	18
N (all)	100	500	101	172	227

Four of the seven decision categories, L, L?, NL?, NL, in the first column of Exhibit 11 signify that all of the models were in unanimous agreement with the listing decision. The other categories (e.g., NL?–L?) represent varied agreement where one or two of the models chose one category and the other model(s) resulted in a different category. Note that none of the models placed a contaminant in a category more than one category higher or lower than the other models. That is, no contaminants were categorized as "L" by one model and as "NL?" by one of the other models, or visa versa. The models categorized approximately one-half of the chemicals on the PCCL as L? or above. When analyzed by data type, the majority of chemicals in the List category used LD_{50} data for health effects. This was a concern and became an important issue for consideration. The role LD_{50} played in the health effects scoring was discussed extensively during the post-model evaluation process.

As part of the last stage in the CCL classification process, the model output was reviewed by a group of internal EPA experts representing several offices. This step involved a detailed review of the data used for the models and the available supplemental data for the chemicals. The EPA experts also deliberated on the method of using the model data to produce a draft proposal for CCL 3. The function of this review was to critically compare the results from the model to the data for the chemicals for a cross section of the modeled contaminants.

Based upon issues identified by the evaluators, several post model refinements were added to the CCL process. Three major issues and refinements are described below.

The relationship between potency and concentration was important when deciding whether to list a chemical. However this ratio could only be developed when water concentration data were available. Accordingly, calculation of the ratio between the health-based value and the 90th percentile concentration in finished or ambient water was added as a post-model process. The potency/concentration ratio serves as a benchmark that suggests a greater concern for a contaminant if the ratio is low and a lesser concern when it is high.

The addition of modeled occurrence data for pesticides and estimated concentration in surface and ground water was obtained from the EPA Office of Pesticide Programs (OPP). The modeled estimates of concentration in water for pesticides are part of the EPA's pesticide registration and re-registration evaluations. Once the availability of the OPP data for some of the pesticides was confirmed, the data were extracted from OPP documents and used to generate a potency/concentration ratio similar to that used with the water concentration data.

Data certainty was factored into the decision process by characterizing health effect and occurrence data

elements and their relative certainty based upon the type of data that was used to score the attribute for the model classification. This characterization tagged data elements with high certainty and low certainty. The combined certainty measure for a single contaminant (i.e., health effects and occurrence tags) was used to place contaminants in bins of high, medium and low certainty.

The high certainty bin consisted of chemicals with direct occurrence measured in water and well-studied data for health effects. Such contaminants are expected to be good candidates for regulatory determination because they provide information that can be considered in that process and have minimal research needs. Examples of the data used to characterize chemicals in the high certainty bin include chemicals with RfDs, LOAELs, and NOAELs, and water concentration data. The medium bin consists of chemicals that will need further occurrence and/or health effects research. For example, chemicals with well studied health effects that only have environmental release data are included in the medium bin. Chemicals that are released to the environment and need further health effects research are also included in the medium bin. The low certainty bin consists of chemicals that have limited data, yet these data suggest that further evaluation should be pursued. These chemicals may need extensive health effects and occurrence research that may require significant resources before regulatory determinations can be made. Examples include chemicals with only LD_{50} and/or production volume data. The CCL should consist both of chemicals that provide sufficient data to support regulatory determinations as well as chemicals that are of concern and need to be targeted for additional drinking water research. Contaminants from each bin were scrutinized separately in selecting which ones should be listed on the CCL 3.

4. Selection of the Draft CCL 3—Chemicals

The chemicals for the draft CCL 3 were selected from within the three certainty bins with the emphasis placed on the source of the occurrence data (e.g., measured concentrations, release, and production). Four groups of chemicals were placed on the CCL based on their modeled scores, the potency-concentration ratios, where available, and the estimate of data certainty. They included:

- 36 chemicals in the high certainty bin with finished or ambient water data and a potency/90th percentile concentration ratio ≤10.
- 24 pesticide chemicals in the medium certainty bin with modeled surface and/or ground water data that yielded a potency/concentration ratio ≤10.
- 27 chemicals in the medium certainty bin with release data that gave modeled L or L-L? rankings.
- 8 chemicals in the low certainty bin that were added to the CCL as recommended by the public in response to EPA's **Federal Register** notice (71 FR 60704, USEPA, 2006b). The notice requested that the public submit chemical and microbial contaminant nominations that should be considered for CCL 3. This process is discussed in section III.C.1.

The potency and concentration were compared to develop a ratio that was used to select contaminants for the draft CCL 3 from the high certainty bin. A ratio between the health-based value and the 90th percentile was taken for chemicals with measurements in finished and ambient water. Contaminants for this bin were selected for the draft CCL 3 when the ratio was ≤10, representing occurrence in water at a level of concern related to its health effects data.

The pesticides in the medium bin, where modeled data was obtained from OPP, were selected for the draft CCL 3 based on their potency/concentration ratios. Similar to the chemicals in the high certainty bin, pesticides were selected for the draft CCL 3 when the potency/concentration ratio was <10, representing potential occurrence in water at a level of concern related to its health effects data. The other chemicals in the medium bin were selected for the draft CCL 3 based on a review of their data and their prioritization from the classification models.

Chemicals in the low certainty bin were selected for the draft CCL 3 based on a review of their supplemental data and the data submitted through the nominations process. Some of the chemicals identified through the nominations process were already on the draft CCL 3 based on the data EPA collected for the universe. The supplemental data provided with the nominations were used to screen the nominated chemicals and score the attributes for those that passed the screen. The scored attributes were then processed through the models and the post-model evaluations. Those that were listed demonstrated adverse health effects and a potential to occur in PWSs. Chemicals not selected for the draft CCL 3 will remain on the PCCL until additional occurrence or health effects data become available to support their reevaluation.

B. Classification Approach for Microbial Contaminants

As discussed in CCL 2 (USEPA, 2005b), the Agency evaluated the NDWAC, NRC and other recommendations, and used the information to develop a pragmatic approach for classifying the microorganisms on the draft CCL 3. The CCL 3 approach for microbes, like the approach used for chemicals, uses the attributes of occurrence and health effects to select the microbial contaminants. EPA's objective is to target microorganisms with the highest potential for human exposure and the most serious adverse health effects. Parallel to the chemical selection process, the Agency considers a broad universe of microbial contaminants and systematically narrows that universe down to develop the draft CCL 3 in a transparent and scientifically sound CCL process. The first step of the CCL 3 approach for microbes identifies a universe of potential drinking water contaminants. The second step screens that universe of microbiological contaminants to a Preliminary Contaminant Candidate List (PCCL). Lastly, EPA selects the draft CCL 3 microbial list by ranking the PCCL contaminants based on occurrence in drinking water (including waterborne disease outbreaks) and human health effects.

1. Developing the Universe

EPA defined the microbial Universe for the draft CCL 3 as all known human pathogens. The Universe process began with the list of 1,415 recognized human pathogens compiled by Taylor *et al.* (2001). The Agency added organisms to the Universe and updated nomenclature in Taylor *et al.* (2001) to account for emerging pathogens and new taxonomy research.

As EPA reviewed Taylor *et al.* (2001), additional pathogens were also identified. EPA surveyed fungi in drinking water and identified six fungi reported to occur in drinking water distribution systems that did not appear on the Taylor list. The added fungi are shown in Exhibit 12. EPA also added reovirus to the Universe based on additional health effects information (Tyler, *et al.*, 2004).

In October 2006, EPA published a notice (71 FR 60704 (USEPA, 2006b)) requesting chemical and microbial contaminant nominations as part of the process to identify emerging contaminants that should be considered for the CCL. As a result of the

nominations process, 24 microbial contaminants were nominated by the public. Twenty-two of the microbes were previously identified by Taylor *et al.* (2001) and are already in the Universe. The two additional pathogens nominated were *Methylobacterium* (with two species) and Mimivirus. These two bacterial species, two viral groups and six fungal species were added to the Microbial Universe which brings the Microbial Universe list to 1,425 pathogens. The full Universe list is available in the document, "Contaminant Candidate List 3 Microbes: Identifying the Universe" (USEPA, 2008d).

EXHIBIT 12.—FUNGI ADDED TO THE MICROBIAL UNIVERSE

Pathogen
Arthrographis kelrae
Chryosporium zontatum
Geotrichum candidum
Sporotrichum pruinosum
Stachybotrys chartarum
Stemphylium macrosporoideum

2. The Universe to PCCL

EPA developed screening criteria to reduce the Universe of all human pathogens to just those pathogens that could be transmitted through drinking water. For example, pathogens transmitted solely by animals, such as the virus that causes rabies, were screened out of the Universe and are not included on the PCCL. Screening is based on a pathogen's epidemiology, geographical distribution, and biological properties in their host and in the environment. EPA moved pathogens forward to the PCCL if there was any evidence linking a pathogen to a drinking water-related disease. The screening criteria restrict the microbial PCCL to human pathogens that may cause drinking water-related diseases resulting from ingestion of, inhalation of, or dermal contact with drinking water. EPA used 12 screening criteria (Exhibit 13) to reduce the pathogens in the microbial CCL universe to the PCCL.

EXHIBIT 13.—CCL SCREENING CRITERIA FOR PATHOGENS

1. All anaerobes.
2. Obligate intracellular fastidious pathogens.
3. Transmitted by contact with blood or body fluids.
4. Transmitted by vectors.
5. Indigenous to the gastrointestinal tract, skin and mucous membranes.
6. Transmitted solely by respiratory secretions.
7. Life cycle incompatible with drinking water transmission.
8. Drinking water-related transmission is not implicated.
9. Natural habitat is in the environment without epidemiological evidence of drinking water-related disease.
10. Not endemic to North America.
11. Represented by a pathogen for the entire genus or species (that are closely related).
12. Current taxonomy changed from taxonomy used in Universe.

Pathogens meeting any single criterion of the 12 criteria were removed from further consideration and not moved forward to the PCCL. Based upon this screening exercise, 1,396 of the 1,425 pathogens were excluded and 29 pathogens moved on to the PCCL. The results of the screening process are summarized in Exhibit 14. The screening criteria and results of the screening process are discussed in greater detail in the supporting document titled "Contaminant Candidate List 3 Microbes: Screening to the PCCL" (USEPA, 2008 e).

EXHIBIT 14.—APPLICATION OF TWELVE SCREENING CRITERIA TO PATHOGENS IN THE MICROBIAL CCL UNIVERSE

Pathogen class	Total	Screening Criteria												Pathogens screened out	On PCCL
		1	2	3	4	5	6	7	8	9	10	11	12		
Bacteria	540	125	14	10	37	117	7	0	29	154	2	28	5	528	12
Viruses	219	0	0	26	104	0	19	1	18	0	36	8	0	212	7
Protozoa	66	0	0	1	29	3	0	4	7	7	0	6	0	57	7*
Helminths	287	0	0	0	25	0	0	106	0	0	156	0	0	287	0
Fungi	313	0	0	0	0	12	1	0	0	297	0	0	0	310	3
Total	1,425	125	14	37	195	132	27	111	54	458	194	42	5	1,394	29*

*Two additional protozoa, *Cryptosporidium* and *Giardia* were not considered for CCL 3 and they are discussed in more detail later.

3. The PCCL to Draft CCL Process

Pathogens on the PCCL were scored for placement on the draft CCL. EPA devised a scoring system to assign a numerical value to each pathogen on the PCCL.

Each of the pathogens on the PCCL was scored using three scoring protocols, one protocol each for waterborne disease outbreaks (WBDO), occurrence in drinking water, and health effects. The higher of the WBDO score or the occurrence score is added to the normalized health effects score to produce a composite pathogen score. Pathogens receiving high scores were considered for placement on the CCL.

EPA normalized the health effects score so that occurrence and health effects have equal value in determining the ranking of the CCL. The equal weighting of occurrence and health effects information closely mirrors the risk estimate methods used by EPA during drinking water regulation development. This scoring system prioritizes and restricts the number of pathogens on the CCL to only those that have been strongly associated with drinking water-related disease. Pathogens that scored low will remain on the PCCL until additional occurrence data, epidemiological surveillance data, or health effects data become available to support their reevaluation. It is important to note that pathogens for which there are no data documenting a waterborne disease outbreak in drinking water earn a low score under the protocols. EPA believes that pathogens that have caused a WBDO and have health effects data should rank higher than pathogens that have only data on health effects but no evidence of a WBDO. The following sections describe

the three protocols used to score the pathogens on the PCCL and the process by which the scores are combined.

a. Waterborne Disease Outbreak Protocol

The Centers for Disease Control and Prevention (CDC), EPA and the Council of State and Territorial Epidemiologists (CSTE) have maintained a collaborative surveillance system for collecting and periodically reporting data related to occurrences and causes of WBDOs since 1971. EPA used the CDC surveillance system as the primary source of data for the waterborne disease outbreaks protocol. Reports from the CDC system are published periodically in *Morbidity and Mortality Weekly Report* (MMWR).

For this protocol (Exhibit 15), a pathogen is scored as having a WBDO(s) in the U.S. if that pathogen is listed in a CDC waterborne disease drinking water surveillance summary (i.e., in the MMWR). A pathogen with multiple WBDOs listed by CDC is given the highest score under this protocol. EPA also scored non-CDC reported WBDOs and WBDOs outside the U.S. as well; however these were given lower scores. WBDOs outside the U.S. were scored when information was available from World Health Organization publications or other peer-reviewed publications.

In addition, CDC and EPA acknowledge that the WBDOs reported in the surveillance system represent only a portion of the burden of illness associated with drinking water exposure (CDC, 2004). The surveillance information does not include endemic waterborne disease risks, nor are reliable estimates available of the number of unrecognized WBDOs and associated cases of illness. Therefore, EPA also considered data as indicating a WBDO (even though CDC does not list a WBDO in their MMWR) if the non-CDC data showed a link between human illness defined by a common water source, a common time period of exposure and/or similar symptoms. EPA also considered the use of molecular typing methods to link patients and environmental isolates.

Only two pathogens were given a WBDO score on this basis, *Mycobacterium avium* and *Arcobacter butzlerei*. They are discussed in greater detail in the "Contaminant Candidate List 3 Microbes: PCCL to CCL Process" (USEPA, 2008 f).

EXHIBIT 15.—WATERBORNE DISEASE OUTBREAK SCORING PROTOCOL

Category	Score
Has caused multiple (2 or more) documented WBDOs in the U.S. since CDC surveillance initiated in 1973	5
Has caused at least one documented WBDO in the U.S. since CDC surveillance initiated in 1973	4
Has caused documented WBDOs at any time in the U.S.	3
Has caused documented WBDOs in countries other than the U.S.	2
Has never caused WBDOs in any country, but has been epidemiologically associated with water-related disease	1

b. Occurrence Protocol

The second attribute of the scoring process evaluates the occurrence of a pathogen in drinking water. Because water-related illness may also occur in the absence of recognized outbreaks, EPA scored the occurrence (direct detection) of microbes using cultural, immunochemical, or molecular detection of pathogens in drinking water under the Occurrence Protocol (Exhibit 16). Occurrence characterizes pathogen introduction, survival, and distribution in the environment. Occurrence implies that pathogens are present in water and that they may be capable of surviving and moving through water to produce illness in persons exposed to drinking water by ingestion, inhalation, or dermal contact.

Pathogen occurrence is considered broadly to include treated drinking water, and all waters using a drinking water source for recreational purposes. This attribute does not characterize the extent to which a pathogen's occurrence poses a public health threat from drinking water exposure. Because viability and infectivity cannot be determined by non-cultural methods, the public health significance of non-cultural detections is unknown.

EXHIBIT 16.—OCCURRENCE SCORING PROTOCOL FOR PATHOGENS

Category	Score
Detected in drinking water in the U.S.	3
Detected in source water in the U.S.	2
Not detected in the U.S.	1

c. Health Effects Protocol

EPA's health effects protocol evaluates the extent or severity of human illness produced by a pathogen across a range of potential endpoints. The seven-level hierarchy developed for this protocol (Exhibit 17) begins with mild, self-limiting illness and progresses to death.

The final outcome of a host-pathogen relationship resulting from drinking water exposure is a function of viability, infectivity, and pathogenicity of the microbe to which the host is exposed and the host's susceptibility and immune response. SDWA directs EPA to consider subgroups of the population at greater risk of adverse health effects (i.e., sensitive populations) in the selection of unregulated contaminants for the CCL. Sensitive populations may have increased susceptibility and may experience increased severity of symptoms, compared to the general population. SDWA refers to several categories of sensitive populations including the following: children and infants, elderly, pregnant women, and persons with a history of serious illness.

Health effects for individuals with marked immunosuppression (e.g., primary or acquired severe immunodeficiency, transplant recipients, individuals undergoing potent cytoreductive treatments) are not included in this health effects scoring. While such populations are considered sensitive subpopulations, immunosuppressed individuals often have a higher standard of ongoing health care and protection required than the other sensitive populations under medical care. More importantly, nearly all pathogens have very high health effect scores for the markedly immunosuppressed individuals; therefore there is little differentiation between pathogens based on health effects for the immunosuppressed subpopulation.

This protocol scores the representative or common clinical presentation for the specific pathogen for the population category under consideration. EPA used recently published clinical microbiology manuals as the primary data source for the common clinical presentation. These manuals take a broad epidemiological view of health effects rather than focusing on narrow research investigations. The one exception to this approach was EPA's scoring of health effects for *Helicobacter pylori*. *H. pylori* is discussed in greater detail in section IV.C as well as in the support document, "CCL 3 Microbes: PCCL to CCL Process" (USEPA, 2008 f).

To obtain a representative characterization of health effects in all populations, EPA evaluated separately the general population and these four sensitive populations as to the common clinical presentation of illness for that population. EPA added the general population score to the highest score among the four sensitive subpopulations for an overall health effects score. The resulting score acknowledges that sensitive populations have increased risk for waterborne diseases.

EXHIBIT 17.—HEALTH EFFECTS SCORING PROTOCOL FOR PATHOGENS

Outcome category	Score	Manifestation in population class				
		General population	Children/ infants	Elderly	Pregnant women	Chronic disease
Does the organism cause significant mortality (> 1/1,000 cases)?.	7					
Does the organism cause pneumonia, meningitis, hepatitis, encephalitis, endocarditis, cancer, or other severe manifestations of illness necessitating long term hospitalization (> week)?.	6					
Does the illness result in long term or permanent dysfunction or disability (e.g., sequelae)?.	5					
Does the illness require short term hospitalization? (< week)?	4					
Does the illness require physician intervention?	3					
Is the illness self-limiting within 72 hours (without requiring medical intervention)?.	2					
Does the illness result in mild symptoms with minimal or no impact on daily activities?.	1					

d. Combining Protocol Scores to Rank Pathogens

EPA scored and ranked the PCCL using the three attribute scoring protocols, occurrence, waterborne disease outbreaks, and health effects. These protocols are designed in a hierarchical manner so that each pathogen is evaluated using the same criteria and the criteria range for each protocol varies from high significance to low significance. The three attribute scores are then combined into a total score.

EPA scored pathogens first using the WBDO and occurrence protocols, and then selected the highest score. Selection of the higher score from the WBDO or occurrence protocol elevates pathogens that have been detected in drinking water or source water in the U.S. (occurrence score of 2 or 3) above pathogens that have caused WBDOs in other countries but not in the U.S. (WBDO score of 2).

The CCL selection process considered pathogens causing recent waterborne outbreaks more important than pathogens detected in drinking water without documented disease from that exposure. Direct detection of pathogens indicates the potential for waterborne transmission of disease. Documented waterborne disease outbreaks provide an additional weight of evidence that illness was transmitted and that there was a waterborne route of exposure. EPA developed protocols to define a hierarchy of the relevance that each of these types of data provide in evaluating microbes for the CCL. Combining these two sources of occurrence information enabled EPA to consider both emerging pathogens, which are detected in water and should be considered, yet are not tracked by public health surveillance programs, and those pathogens with WBDO data. This hierarchy also acknowledges that organisms identified as agents in WBDO are a higher priority for the CCL.

Next, pathogens were scored using the Health Effects Protocol. All five population categories were scored for each pathogen using the most common clinical presentation for the specific pathogen for the population category under consideration. Because it is recognized that pathogens may produce a range of illness from asymptomatic infection to fulminate illness progressing rapidly to death, scoring decisions are based upon the more common clinical presentation and clinical course for the population under consideration, rather than the extremes. The pathogen's score for the general population is added to the highest score among the four sensitive populations to produce a sum score between 2 and 14.

Finally, EPA normalizes the Health Effects and WBDO/Occurrence score because the Agency believes they are of equal importance. The highest possible score for WBDO/Occurrence is 5 and the highest possible Health Effect score is 14. To equalize this imbalance, the Agency multiplies the health effects score by $5/14$. Combining health effects data with the WBDO/occurrence data by adding the scores from these protocols provides a system that evaluates both the severity of potential disease and the potential magnitude of exposure through drinking water.

Exhibit 18 presents the scores for all the PCCL pathogens with the exception of *Giardia* and *Cryptosporidium*. These two protozoan pathogens made it through the screening protocol, however, EPA chose not to score or include them on the PCCL because EPA has recently published a national primary drinking water regulation that specifically addresses these pathogens (January 4, 2006, 71 FR 388 (USEPA, 2006 a) and is discussed in more detail later.

EXHIBIT 18.—PATHOGENS ON THE PCCL

Pathogen	WBDO	Occurrence	Normalized health score	Total[1] score
Naegleria fowleri	4	3	5.0	9.0
Legionella pneumophila	5	3	3.6	8.6
Escherichia coli (0157)	5	3	3.2	8.2

EXHIBIT 18.—PATHOGENS ON THE PCCL—Continued

Pathogen	WBDO	Occurrence	Normalized health score	Total[1] score
Hepatitis A virus	5	2	3.2	8.2
Shigella sonnei	5	3	3.2	8.2
Helicobacter pylori	1	3	5.0	8.0
Campylobacter jejuni	5	3	2.5	7.5
Salmonella enterica	5	3	2.5	7.5
Caliciviruses	5	3	2.1	7.1
Entamoeba histolytica	5	3	2.1	7.1
Vibrio cholerae	5	3	2.1	7.1
Adenovirus	2	3	3.6	6.6
Enterovirus	2	3	3.6	6.6
Cyclospora cayetanensis	4	1	2.5	6.5
Mycobacterium avium	4	3	2.5	6.5
Rotavirus	4	2	2.5	6.5
Yersinia enterocolitica	5	3	1.4	6.4
Arcobacter butzleri	4	3	2.1	6.1
Fusarium solani	1	3	2.9	5.9
Plesiomonas shigelloides	4	3	1.8	5.8
Hepatitis E virus	2	1	3.6	5.6
Toxoplasma gondii	2	1	3.2	5.2
Aspergillus fumigatus group	1	3	2.1	5.1
Exophiala jeanselmei	1	3	2.1	5.1
Aeromonas hydrophila	1	3	1.8	4.8
Astrovirus	2	2	1.4	3.4
Microsporidia	1	2	1.4	3.4
Isospora belli	2	0	1.1	3.1
Blastocystis hominis	1	0	0.7	1.7

1. Total Score = Normalized Health Score + the higher of WBDO or Occurrence scores.

e. Other Criteria Considered for Listing and Scoring Microbes on the Draft CCL 3

i. Organisms Covered by Existing Regulations

EPA considered an additional screening criterion based upon contaminants that might be controlled through drinking water monitoring requirements under the Total Coliform Rule (TCR) (54 FR 27544, June 29, 1989 (USEPA, 1989b)). Many of the bacteria in the CCL Universe, including the *Enterobacteriaceae* and members of the genera *Campylobacter* and *Vibrio,* are associated with fecal contamination and as such their presence could be signaled by the total coliform monitoring requirements under current drinking water regulations. In the TCR, EPA chose to require monitoring for *Escherichia coli* or fecal coliform (and total coliforms) in finished drinking water because it provides a broad indication of the potential presence of fecal pathogens in drinking water, though more so for bacteria than for viruses and protozoa.

EPA chose not to exclude common enteric bacterial pathogens from the PCCL even though they may be indicated by the TCR. Numerous waterborne disease outbreaks have occurred in systems that were in compliance with drinking water monitoring requirements under the TCR. EPA recognizes the frequency of total coliform monitoring under the TCR may be limited, especially for smaller systems, thus transitory fecal contamination could go undetected. The recognition of these bacterial pathogens on the CCL list will provide additional understanding of the risks posed by distribution systems.

The Agency is currently revising the TCR and considering distribution water quality issues (because of the pathways of potential fecal contamination). Including these pathogens on the CCL emphasizes their importance in protecting public health. EPA believes that enteric pathogens should be included for further specific regulatory consideration in the CCL.

ii. Organisms Covered by Treatment Technique Regulations

According to SDWA (section 1412(b)(1), as amended in 1996), EPA must select CCL contaminants that "at the time of publication, are not subject to any proposed or promulgated national primary drinking water regulation * * *." In promulgating regulations for contaminants in drinking water, EPA can set either a legal limit (MCL) and require monitoring for the contaminant in drinking water or, for those contaminants that are difficult to measure, EPA can establish a treatment technique requirement. The Surface Water Treatment Rule (SWTR) (54 FR 27486, June 29, 1989 (USEPA, 1989a)) included MCLGs for *Legionella, Giardia,* and viruses at zero because any amount of exposure to these contaminants represents some public health risk. Since measuring disease-causing microbes in drinking water is not considered to be feasible, EPA established treatment technique requirements for these contaminants. The purpose of subsequent treatment technique requirements (Interim Enhanced Surface Water Treatment Rule (63 FR 69478; USEPA 1998a), Long Term Surface Water Treatment Rule 1 (67 FR 1813; USEPA, 2002a) and the Long Term Surface Water Treatment Rule 2 (71 FR 654; USEPA, 2006a)) which included an MCLG of zero for *Cryptosporidium,* is to reduce disease incidence associated with *Cryptosporidium* and other pathogenic microorganisms in drinking water. These rules apply to all public water systems that use surface water or ground water under the direct influence of surface water.

The Ground Water Rule (71 FR 65573, (USEPA, 2006c)) set treatment technique requirements to control for viruses (and pathogenic bacteria) because it was not feasible to monitor for viruses (or pathogenic bacteria) in drinking water. Under the GWR, if systems detect total coliforms in the distribution system, they are required to monitor for a fecal indicator (*E. coli,*

coliphage, or enterococci) in the source water. If fecal contamination is found in the source water, the system must take remedial action to address contamination.

While *Cryptosporidium* and *Giardia* have been implicated in WBDOs, there is a substantial amount of research regarding health effects and sensitivity to various treatment control measures. More importantly, as noted above, EPA has recently published a National Primary Drinking Water Regulation, The Long Term 2 Surface Water Treatment Rule that specifically addresses these pathogens (71 FR 654 (USEPA, 2006a)). Therefore, they are excluded from the CCL.

EPA did not exclude specific viruses and *Legionella* from consideration for the CCL even though they have broad category MCLGs and treatment technique requirements. Viruses include a wide range of taxa. The treatment and health effects information for different viral taxa was very limited when setting the treatment technique requirements for surface water and ground water systems. Also, different viral taxa have been implicated in various waterborne disease outbreaks for which EPA did not have dose response or treatment data when promulgating its treatment technique requirements. *Legionella* has recently been identified in numerous WBDOs (e.g., CDC *MMWR* reports, 2006). Additionally EPA received additional information on the occurrence of *Legionella* in distribution systems as part of the nominations process (USEPA 2008g). Therefore EPA included viruses and *Legionella* on the draft CCL 3.

iii. Applying Genomic and Proteomic Data to Microbes

The Agency and NDWAC workgroup evaluated the possibility of using genomics and proteomics as data to identify emerging waterborne pathogens, opportunistic microorganisms, and other newly identified microorganisms. While the application of these data in identifying genetic properties that may be pathogenic is a powerful tool for the elucidation of pathogenic mechanisms, the technology is yet largely unproven and the Agency has decided at this time not to use these techniques for CCL application. However, the Agency is monitoring the progress of these technologies and as the data improve and genomics progresses the Agency may consider them for future CCL development.

4. Selection of the Draft CCL 3 Microbes From the PCCL

The 29 PCCL pathogens in Exhibit 18 are ranked according to an equal weighting of their summed scores for normalized health effects and the higher of the individual scores for WBDO and occurrence in drinking water. EPA believes this ranking indicates the most important pathogens to consider for the draft CCL 3. To determine which of the 29 PCCL pathogens should be the highest priority for EPA's drinking water program and included on the draft CCL 3, the Agency considered both scientific and policy factors. The factors included the PCCL scores for WBDO, occurrence, and health effects; comments and recommendations from the various expert panels; the specific intent of SDWA; and the need to focus Agency resources on pathogens to provide the most effective opportunities to advance public health protection. After consideration of these factors, EPA has determined that the draft CCL 3 will include the 11 highest ranked pathogens shown in Exhibit 18.

Additionally, the Agency notes that, and as can be observed in Exhibit 18, there are a few "natural" break points in the ranked scores for the 29 pathogens, with the top 11 forming the highest ranked group of pathogens. EPA does believe that the overall rankings strongly reflect the best available scientific data and high quality expert input employed in the CCL selection process, and therefore should be important factors in helping to identify the top priority pathogens for the draft CCL 3.

C. Public Input

1. Nominations and Surveillance

On October 16, 2006, EPA published a **Federal Register** notice (71 FR 60704 (USEPA, 2006 b)) requesting the public to submit chemical and microbial contaminant nominations that should be considered for CCL 3. EPA evaluated nominated contaminants to identify the data supporting their nomination. This section describes EPA's request for contaminants and summarizes the nominations received by EPA. A more detailed discussion of the contaminants, including a list of the specific contaminants nominated, can be found in the CCL 3 Nominations Summary in EPA's Water Docket (USEPA, 2008 g).

The Agency sought CCL nominations for contaminants by framing the SDWA requirements in a series of questions to document the anticipated or known occurrence in PWS(s) and adverse health effects of potential contaminants. The Agency requested that the public respond to these questions and provide the documentation and rationale for including a contaminant for consideration in the CCL process. The questions posed to the public were:

—What are the contaminant's name, CAS number, and/or common synonym (if applicable)?

—What factors make this contaminant a priority for the CCL 3 process (e.g., widespread occurrence; anticipated toxicity to humans; potentially harmful effects to susceptible populations (e.g., children, elderly and immunocompromised); potentially contaminated source water (surface or ground water), and/or finished water; releases to air, land, and/or water; contaminants manufactured in large quantities with a potential to occur in source waters)?

—What are the significant health effects and occurrence data available, which you believe supports the CCL requirement(s) that a contaminant may have an adverse effect on the health of persons and is known or anticipated to occur in public water systems?

The Agency compiled the information from the nominations process to identify the contaminants nominated and the rationale for the nomination and to compare the supporting data to information already gathered by EPA.

The nominations process identified 150 chemical and 24 microbial contaminants from 11 organizations and individuals. The organizations that nominated contaminants are:

—American Society of Microbiology (ASM),

—American Water Works Association (AWWA),

—Association of Metropolitan Water Agencies (AMWA),

—Association of State Drinking Water Administrators (ASDWA),

—Mothers Against *Acanthamoeba* Disease,

—Natural Resources Defense Council, (NRDC),

—Riverkeepers,

—State of New Jersey Department of Environmental Protection,

—State of New York Department of Health, and

—State of Texas Commission on Environmental Quality.

Exhibit 19 summarizes the types of nominated contaminants and who nominated them. The complete list of chemical and microbial contaminants nominated can be found in EPA's Water Docket. Some of the nominations identified categories of contaminants that the Agency should consider for the CCL. There were 23 chemical groups identified from the 150 chemical contaminants that were nominated. For

example, several organizations identified pesticides that are not currently regulated under the SDWA as candidates for consideration. Other groups identified by the public are listed in Exhibit 19.

EXHIBIT 19.—SUMMARY OF CCL 3 NOMINATIONS

Nominator	Number of individual contaminants or specific examples from nominated groups	Types and groups of contaminants
ASM	2	Mimivirus, *Naegleria fowleri*.
AMWA	3	Nitrosoamines and other DBPs.
ASDWA	14	Disinfection byproducts (DBPs), unregulated pesticides, solvents, total petroleum hydrocarbons, cyanotoxins, 3 perfluorinated contaminants (PFCs), viruses, phthalates, nitrite, nitrate; endocrine disruptors.
AWWA	38	DBPs, pesticides, 16 specific microbes, cyanotoxins, radium, 1,4-dioxane.
Mothers Against *Acanthamoeba* Disease	1	*Acanthamoeba*.
New Jersey DEP	4	PFOS, PFOA, trichloropropane, tertiary butyl alcohol.
New York DOH	24	Pharmaceuticals, personal care products, DBPs, fuel oxygenates, 1,4-dioxane, herbicides, bio-monitoring data.
NRDC	26	Alkylphenolpolyethoxylates (APEs that may be endocrine disrupter compounds (EDC)), all unregulated pesticides, perchlorate, Mycobacterium avium complex (MAC), phthalates, managanese, bisphenol A.
Riverkeeper	52	Pharmaceuticals, sodium, chloride.
Texas DEQ	3	Viruses, nitrite, nitrate.

The Agency evaluated the nominations to identify contaminants not previously considered for the CCL and new pertinent information provided by the public. Nominated contaminants were evaluated to identify and compare supporting information provided to that used in the CCL process. Of the 174 chemical and microbial contaminants nominated, 152 contaminants were already being considered by the Agency. Seven of the nominated contaminants are currently regulated in PWSs and will not be included in the CCL 3 process. Most of the data sources cited in the nominations process were already identified for the CCL 3 process. The nominations process did identify recently published specialized studies from scientific literature that were subsequently incorporated in the CCL 3 evaluation process.

Where new supplemental data was provided for contaminants that had not been identified for the draft CCL 3, EPA used the supplemental data to screen the nominated chemicals and score the attributes for those that passed the screen. EPA then processed the nominated contaminants through the models and the post-model evaluations. Twenty of the contaminants identified in the nominations process are on the draft CCL 3.

2. External Expert Review and Input

EPA actively sought external advice and expert input for the draft CCL 3. In addition to their own recommendations, the NRC and NDWAC recommended that the Agency seek opportunities to incorporate additional expert input in the development of the draft CCL 3. EPA convened several external expert panels at integral stages during the development of the draft CCL 3. EPA incorporated expert judgment and input from the scientific community into the CCL process for both chemicals and microbes. The Agency has requested a consultation with the Science Advisory Board that will take place in 2008.

For each expert panel, EPA sought panel members that provided a variety of disciplines and expertise. Panel members were encouraged to provide comments as individuals based upon their expertise and background, not as representatives of their respective organizational affiliations. Expert panel members were also encouraged to present individual comments if consensus comments were not developed. Separate panels were convened to review the draft chemical and microbial CCL 3 lists and the processes used to develop them. A more detailed discussion of the chemical and microbial expert review and input is provided in the support documents in the EPA Water Docket. A brief overview of the chemical and microbial expert review and stakeholder involvement follows.

a. Chemical Expert Input Panels

In September of 2006, EPA formed two external expert panels to provide specific input into the chemical CCL 3 process. In the first panel, experts reviewed the data sources and the process used to identify the chemical universe. EPA convened the second panel for a 3-day workshop to review the data and information used to develop screening criteria, the data and methodology for the classification approach, and to provide overall input into the CCL process. In summary, the panels recommended that EPA consider additional data sources in the process. They also commented on ways to improve and clarify the presentation of EPA efforts, thereby ensuring that the CCL 3 process for chemicals is more transparent. The expert panel reviewing the classification approach identified additional analyses and approaches to train and validate the models. The panel specifically commented on the varied nature of data elements and sources considered in the classification process. The panel recommended that to account for these varied data sources, contaminants be flagged based upon data certainty, and that uncertainty be considered in making a listing decision. The Agency applied their recommendations in the development of the draft CCL 3. In addition, the expert panels acknowledged the Agency's efforts to transparently present a complex process and noted that many of the questions posed by the panels were previously considered by EPA. They recommended that additional discussion and information in the support documents would add to the clarity of the process.

In March 2007, EPA convened a panel to review the preliminary draft CCL 3 list for the chemical contaminants in a two-day workshop. Panelists provided

comments on a preliminary draft list of contaminants after receiving supporting materials and presentations from EPA staff. The panel's review focused mainly on the chemicals on the draft CCL 3. They provided comments on contaminants considered for the draft CCL 3 and commented on the supporting data and methods EPA used to identify the contaminants selected. They also provided general comments on the classification model output and the processes used to select chemical contaminants for CCL 3. In addition, they recommended EPA consider a strong outreach process to highlight the significant modeling and decision making processes used in its development.

The panel recognized the level of effort and detail that went into the development of the modeling process used to create the draft list and complimented EPA on these efforts. Comments from all the panels were considered by EPA and appropriate changes were incorporated into the process/protocols to formulate the draft CCL 3. (Specific recommendations and comments are further described in USEPA, 2008h.)

b. Microbial Expert Input Panels

EPA convened three workshops to review, discuss, and comment on the microbes considered and selected for the draft CCL 3. In December 2005, a group of expert microbiologists reviewed and commented on the universe of human pathogens and the screening criteria used to develop the PCCL. This panel agreed that focusing on human pathogens is a reasonable and pragmatic way to identify potential drinking water contaminants. While the panel suggested that animal pathogens may develop the ability to infect humans, they noted that these emerging contaminants should not be listed on the CCL based on the theoretical potential to become zoonotic pathogens. They also identified additional criteria and methods to apply those criteria to the Microbial Universe, which EPA incorporated into the CCL process.

In June 2006, a panel of experts met for three days to review EPA's implementation of recommendations by NRC and NDWAC to select microbes for the CCL. EPA implemented the NDWAC recommendation to develop a process that paralleled the chemical process yet still accounted for the different types of data and information that are uniquely available for microbial contaminants. Panel members agreed that health effects and occurrence of microbes should be evaluated to identify pathogens of the greatest health importance. The panel recommended that EPA use a decision tree approach for microbes rather than the classification approach suggested by NRC and NDWAC.

The panel further recommended that the Agency consider a different selection process than the one used for chemical contaminants, related to the different information available for microbes. Based on this recommendation, the Agency evaluated options to consolidate the potency and severity attributes for microbes into a single health effect attribute, developed a waterborne disease outbreak protocol, and considered occurrence as a single attribute. The Agency considered these and other recommendations as it developed the current three attribute selection process discussed in Section III.B. The panel also recommended that the Agency consider drinking water treatment and removing microbes from further consideration if conventional drinking water treatment protects public health. The Agency's considerations of these and other recommendations are discussed in the Microbial Expert Review support document (USEPA, 2008i).

In March 2007, EPA convened a third workshop to review the preliminary draft CCL 3 list of microbial contaminants. EPA provided the panel with background materials and staff presentations. The panel's review focused mainly on the draft CCL 3 for microbes. The panel also provided comments on the processes used to select the microbial contaminants. Panel members commented on specific microbes considered for the draft CCL 3 and commented on the data and processes EPA used to identify the contaminants selected. The panel noted that the Agency considered a comprehensive list of microbes and thought the draft CCL 3 was reasonable. The panel also recommended that the Agency consider adding a frequency of disease parameter to the health effects scoring protocol for future CCLs. For example, while the panel agreed with EPA that the health effects for *Naegleria fowleri* are severe, the health effects scoring protocol should consider the limited occurrence of disease. The panel also noted that this would help balance the consideration of less severe adverse health effects such as gastrointestinal illness that are more prevalent with consideration of more severe responses that are less prevalent, such as *N. fowleri*. The panel recommended that EPA provide further discussion of the rationale to evaluate waterborne disease and health effects equally in the protocol. The discussion of the Agency's rationale is included in Section III.B and addresses the importance of documented waterborne disease outbreaks to identify potential microbial contaminants for the CCL. (A more detailed summary of the expert comments is provided in USEPA, 2008 i.)

3. How are the CCL and UCMR Interrelated for Specific Chemicals and Groups?

EPA promulgated UCMR 2 on January 4, 2007 (72 FR 367 (USEPA, 2007 a; see also USEPA, 2007 b and c)). The UCMR program was developed in coordination with the CCL. Both programs consider the adverse health effects a contaminant may pose through drinking water exposures. Sixteen contaminants on the UCMR 2 monitoring list are also on the draft CCL 3. The draft CCL 3 includes acetochlor and its degradates, alachlor degradates, dimethoate, 1,3-dinitrobenzene, metolachlor and its degradates, RDX, terbufos sulfone, and four of the nitrosamines. In addition to the health effects data and potential occurrence, the UCMR 2 also considers analytical methods, availability of analytical standards, and laboratory capacity to conduct a nationwide monitoring program in selecting contaminants. The UCMR 2 includes nine contaminants that are not on draft CCL 3. The five polybrominated flame retardants can be measured by the same analytical method used for terbufos sulfone. The polybrominated flame retardants lacked sufficient occurrence information to be listed on draft CCL 3 (USEPA 2008 b). The polybrominated flame retardants are listed on UCMR2 because of recent concern that these have become more widespread environmental contaminants (e.g., Darnerud *et al.*, 2001) and this monitoring data will provide information for future CCLs. Similarly, 2,4,6-trinitrotoluene (TNT) and two of the nitrosamines also use an analytical method in the UCMR 2. The Agency will also use the results from UCMR 2 as a source of occurrence information during the selection of CCL 4, as well as for CCL 3 regulatory determinations. Alachor was listed on UCMR 2, but was removed from consideration for CCL 3 because there is an existing MCL.

IV. Request for Comment

The purpose of this notice is to present the draft CCL 3 and seek comment on various aspects of its development. The Agency requests comment on the approach used to develop the draft CCL 3 and also requests comments on the contaminants selected, including any supporting data

that can be utilized in developing the final CCL 3. A number of contaminants considered for the draft CCL 3 may be of particular current interest. The following sections provide information for a few of the contaminants that are of most interest. Data obtained and evaluated for developing the draft CCL 3 and referred to in the following sections may be found in the docket for this notice. Specifically, the Agency is also asking for public comments on pharmaceuticals and perfluorinated compounds to identify any additional data and information on their concentrations in finished or ambient water and requests comment on how they have been considered in the CCL 3 process. The Agency is also seeking additional data and information on the occurrence and health effects of *H. pylori* and how this pathogen was considered in the CCL 3 process. Information and comments submitted will be considered in determining the final CCL 3, as well as in the development of future CCLs and in the Agency's efforts to set drinking water priorities in the future.

A. Pharmaceuticals

The Agency evaluated data sources to identify pharmaceuticals and personal care products that have the potential to occur in PWSs. The primary source of health effects information on pharmaceuticals in the universe was the Food and Drug Administration Database on Maximum Recommended Daily Doses (MRDD). This database includes the recommended adult doses for over 1,200 pharmaceutical agents. Occurrence information from USGS Toxics Substances Hydrology program's National Reconnaissance of Emerging Contaminants, and related efforts, provided ambient water concentration data for 123 contaminants, which include pharmaceuticals. Other data sources included TRI and high production volume chemical data. From this analysis, EPA included 287 pharmaceuticals in the Chemical Universe. These pharmaceuticals had maximum recommended daily dose information that EPA used to evaluate adverse health effects. EPA considered those pharmaceuticals for which MRDD values and occurrence information were available and pharmaceuticals that were in Toxicity Category 1, using the same criteria discussed in Section III.A.2.a. EPA found that less than two percent of the pharmaceuticals included in the MRDD database fell into this category.

EPA applied the LOAEL screening protocols to contaminants with MRDD values. The LOAEL protocol was used because pharmaceutical agents, although used for their beneficial effects, have associated side-effects that may be adverse. Chemicals evaluated with these data had similar modal values and distributions to the toxicity values from IRIS. The range of toxicity values in this database covered 9 orders of magnitude when evaluated based on their rounded logs. They had the same modal value as the LOAELs from IRIS and a very similar distribution. Thirty-five percent of the IRIS LOAELS and 38 percent of the MRDDs had the modal rounded log. Thirty-three percent of the LOAELs and 19 percent MRDDs had rounded logs that were lower than the mode, while 31 percent of the LOAELs and 44% of the MRDDs had rounded logs that were above the modal log value.

The screening process moved approximately 10 percent of the pharmaceuticals in the Universe to the PCCL. All toxicity data on those chemicals were included in the screening with the most serious qualitative or quantitative measure of toxicity determining placement in a toxicity category. Only one of the PCCL chemicals (diazinon, a veterinary product as well as a pesticide) had water concentration data. Two other pharmaceuticals: phenytoin (an anticonvulsant) and nitroglycerin (treatment of angina), had release data. The remainder were scored for occurrence based on production information, which meant that they fell into the low certainty bin for their occurrence parameters. Nitroglycerin is the only pharmaceutical that is included on the draft CCL 3. EPA is aware of concerns regarding the potential presence of pharmaceuticals in water supplies. The Agency is seeking additional data and information on the concentrations of pharmaceuticals in finished or ambient water and requests comment on how pharmaceuticals have been considered in the CCL 3 process.

B. Perfluorooctanoic Acid and Perfluorooctane Sulfonic Acid

EPA evaluated perfluorinated compounds in the CCL 3 process and requests comment on its decisions to include perfluorooctanoic acid (PFOA) and not to include perfluorooctane sulfonic acid (PFOS) on the draft CCL 3. EPA identified potential health effects and occurrence information for these compounds from the data sources discussed in Section III. The data used for these compounds are discussed in the support documents in more detail. Available analytic methods for these chemicals limited the occurrence data for these compounds. The Agency identified data on the annual production from CUS/IUR indicating limited production and possible release to the environment. Several organizations nominated PFOS and PFOA for consideration in the CCL process. The nominations noted that these chemicals are persistent in the environment and have been detected at varying levels in drinking water and ambient water in smaller specialized studies. EPA collected the information cited in the nominations and evaluated each of these chemicals. The Agency included PFOA on the draft CCL 3 because it met the criteria for inclusion on draft CCL 3 based on drinking water occurrence studies in Ohio and West Virginia (Emmett, *et al.*, 2006) and on health effects data indicated through animal studies (USEPA, 2005 a).

The Agency did not include PFOS on the draft CCL 3. Occurrence data for PFOS characterized detections in several States (Boulanger, *et al.*, 2004, Hansen, *et al.*, 2002, Goeden and Kelly, 2006). These data showed that levels of detection for PFOS in ambient water ranged from 20 to approximately 100 parts per trillion. Data identified in the nominations process detected PFOS at higher concentrations in areas surrounding landfills known to be contaminated with industrial waste containing PFOS. The CCL process did not consider occurrence data from targeted studies of contaminated waste sites, however. Such studies are usually developed to identify and characterize hazardous waste cleanup efforts and may not be representative of occurrence in drinking water not in close proximity to the study site. PFOS was phased out of production in the U.S. between 2000 and 2002, and regulation limits its importation to a very small number of controlled, very low release uses, (67 FR 72854; December 9, 2002 (USEPA, 2002 c)). Based on the general absence of occurrence data, combined with the phase out, effectively eliminating most future releases, PFOS did not meet the criteria for CCL 3.

The Agency is evaluating data related to PFOA in a formal risk assessment process under the Toxic Substance Control Act. EPA's Science Advisory Board (SAB) completed a review of a draft risk assessment in 2006 and SAB made recommendations for the further development of the risk assessment. A final risk assessment may not be completed for several years, as a number of important studies are underway. The Agency is also participating in additional research regarding the toxicity and persistence of related perfluorochemicals, as well as research to help identify where these chemicals

are coming from and how people may be exposed to them.

C. Helicobacter pylori

Helicobacter pylori is a pathogen that causes gastric cancer in addition to acute gastric ulcers. EPA placed this pathogen on the draft CCL. However, the analysis for *H. pylori* differs from the other pathogens due to the long term and/or chronic nature of its health effects rather than the more common acute effects of most waterborne pathogens. This organism is an emerging pathogen whose impact has only recently begun to be understood. Given the slow development of adverse health effects due to infection by *H. pylori*, it is more difficult to link contamination of drinking water and show a waterborne disease outbreak. Therefore, given the long timeframe of cancer and ulcer development (as opposed to the commonly acute gastrointestinal illness of nearly all the other pathogens on the PCCL) as well as the ongoing nature of the research, EPA used peer-reviewed scientific papers to score the health effects of *Helicobacter pylori*. EPA request comment on the process of selection of microbial contaminants that cause chronic rather than acute health effects.

V. EPA's Next Steps

Between now and the publication of the final CCL, the Agency will evaluate comments received during the comment period for this notice, consult with the SAB, and re-evaluate the criteria used to develop the draft CCL and revise the CCL, as appropriate.

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Dated: February 6, 2008.

Benjamin H. Grumbles,

Assistant Administrator, Office of Water.

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RULES GOING INTO EFFECT FEBRUARY 21, 2008

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Automatic residential garage door operators; safety standard; published 9-27-07

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Amendment to Delegate Administration of the Commission's Rule to the Public Safety and Homeland Security Bureau; published 2-21-08

Radio Broadcasting Services:

Live Oak, FL; published 1-25-08

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

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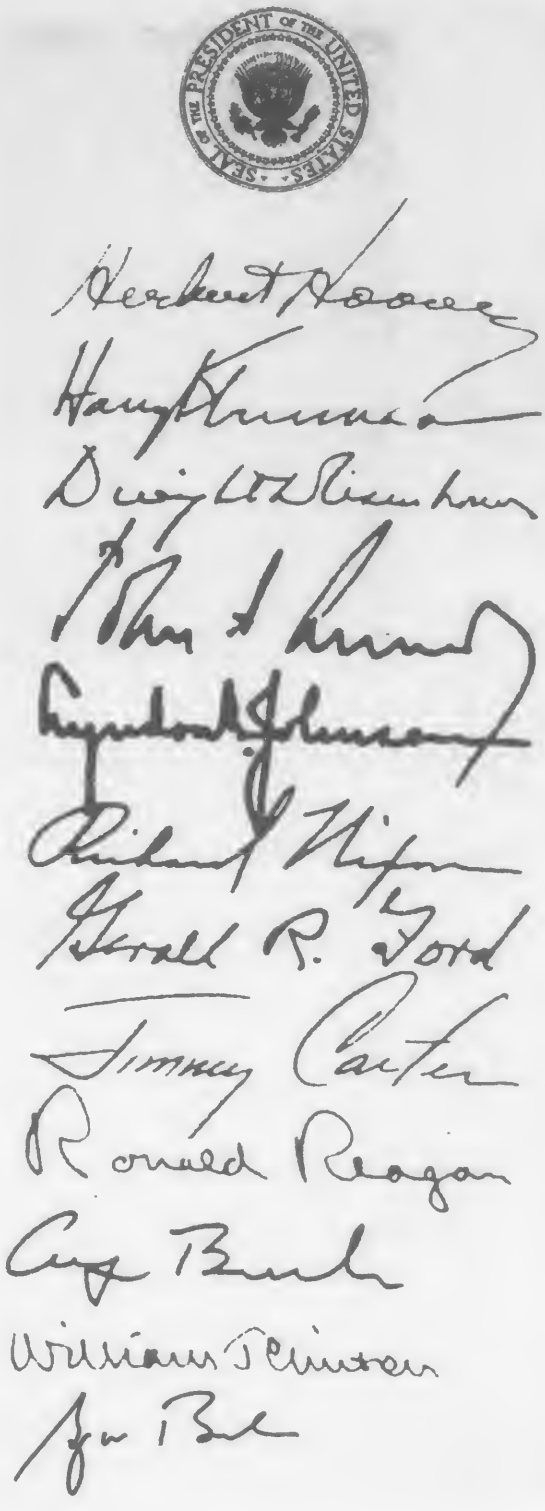

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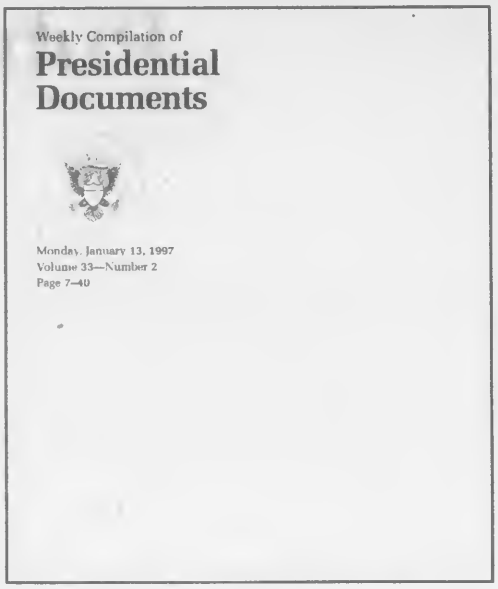

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