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NUCLEAR REGULATORY COMMISSION

10 CFR Part 110

RIN 3150–AH89

Revision of NRC Form 7, Application for NRC Export/Import License, Amendment, or Renewal

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule: Confirmation of effective date.

SUMMARY: The Nuclear Regulatory Commission (NRC) is confirming the effective date of June 27, 2006, for the direct final rule that appeared in the **Federal Register** of April 13, 2006 (71 FR 19102). This direct final rule amended the NRC's regulations that govern the export and import of nuclear material and equipment concerning the use of NRC Form 7, "Application for NRC Export/Import License, Amendment, or Renewal." Recently, the Commission revised NRC Form 7 to consolidate all license requests (*i.e.*, applications for export, import, combined export/import, amendments and renewals) in one application form. Previously, NRC Form 7 was used only for applications for export of nuclear material and equipment. Import license applications, and production or utilization facility export applications, and license amendment and renewal applications were filed by letter. As a result of the revision, these requests, previously made by letter, now will be made using NRC Form 7. The purpose of this rule change is to amend the regulations that govern export and import of nuclear material and equipment to reflect the consolidation of all license requests in one application, NRC Form 7, as revised. This document confirms the effective date.

DATES: The effective date of June 27, 2006, is confirmed by this direct final rule.

ADDRESSES: Documents related to this rulemaking may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. These same documents may also be viewed and downloaded electronically via the rulemaking Web site (*http://ruleforum.llnl.gov*). For information about the interactive rulemaking Web site, contact Ms. Carol Gallagher (301) 415–5905; e-mail *CAG@nrc.gov*.

FOR FURTHER INFORMATION CONTACT: Brooke G. Smith, International Policy Analyst, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–2490, e-mail *bgs@nrc.gov*.

SUPPLEMENTARY INFORMATION: On April 13, 2006 (71 FR 19102), the NRC published in the **Federal Register** a direct final rule amending its regulations in 10 CFR part 110 concerning the use of NRC Form 7, "Application for NRC Export/Import License, Amendment, or Renewal." Recently, the Commission revised NRC Form 7 to consolidate all license requests (*i.e.*, applications for export, import, combined export/import, amendments and renewals) in one application form. Previously, NRC Form 7 was used only for applications for export of nuclear material and equipment. Import license applications, and production or utilization facility export applications, and license amendment and renewal applications were filed by letter. As a result of the revision, these requests, previously made by letter, now will be made using NRC Form 7. The purpose of this rule change is to amend the regulations that govern export and import of nuclear material and equipment to reflect the consolidation of all license requests in one application, NRC Form 7, as revised. In the direct final rule, the NRC stated that if no significant adverse comments were received, the direct final rule would become final on the date noted above. The NRC did not receive any comments. Therefore, this rule is effective as scheduled.

Dated at Rockville, Maryland, this 19th day of June, 2006.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. E6–9922 Filed 6–22–06; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL TRADE COMMISSION

16 CFR Part 803

Premerger Notification; Reporting and Waiting Period Requirements

AGENCY: Federal Trade Commission.

ACTION: Final rule amendments.

SUMMARY: The Commission is amending the premerger notification rules ("the rules") that require the parties to certain mergers and acquisitions to file reports with the Federal Trade Commission ("the Commission" or "FTC") and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice ("the Assistant Attorney General" or "DOJ") and to wait a specified period of time before consummating such transactions. The reporting and waiting period requirements are intended to enable these enforcement agencies to determine whether a proposed merger or acquisition may violate the antitrust laws if consummated and, when appropriate, to seek a preliminary injunction in Federal court to prevent consummation. These amendments will update and improve the effectiveness of the rules by allowing submission of notification and report forms electronically via the Internet.

DATES: These final rules are effective on June 23, 2006.

FOR FURTHER INFORMATION CONTACT: Comments or questions may be directed to Robert L. Jones, Deputy Assistant Director, Premerger Notification Office, Bureau of Competition, Room 302, Federal Trade Commission, Washington, DC 20580. Telephone: (202) 326–2740. E-mail: *HSRHelp@hsr.gov*.

SUPPLEMENTARY INFORMATION:

Background

Section 7A of the Clayton Act ("the act"), 15 U.S.C. 18a, as added by the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. 94–

435, 90 Stat. 1390, requires all persons contemplating certain mergers or acquisitions to file notification with the Commission and the Assistant Attorney General and to wait a designated period of time before consummating such transactions. Congress empowered the Commission, with the concurrence of the Assistant Attorney General, to require "that the notification * * * be in such form and contain such documentary material and information * * * as is necessary and appropriate" to enable the agencies "to determine whether such acquisitions may, if consummated, violate the antitrust laws." Congress similarly granted rulemaking authority to, inter alia, "prescribe such other rules as may be necessary and appropriate to carry out the purposes of this section." 15 U.S.C. 18a(d).

Pursuant to that section, the Commission, with the concurrence of the Assistant Attorney General, developed the Antitrust Improvements Act Rules ("the rules") and the Notification and Report Form for Certain Mergers and Acquisitions ("the Form"). The rules and Form have been amended or revised on numerous occasions. These rule changes amend Section 803 and the Instructions to the Form to provide the option of filing the Form electronically.

Statement of Basis and Purpose for the Commission's Revision of Its Premerger Notification Rules

The Commission, with the concurrence of the Assistant Attorney General, is adopting and implementing these rule changes to allow the submission of HSR filings electronically via the Internet. Computer technology has reached the level of sophistication necessary, through the growth of the Internet, near universal access to the Internet, and increased speed and sophistication of both computer hardware and software, to allow electronic submission of the Form. Electronic filing will provide several benefits to the companies filing the Form as well as to the reviewing agencies:

—Filing the Form electronically will eliminate expensive and time-consuming duplication of submitted documents. Currently, companies filing HSR notification must submit five paper copies of their filing, consisting of one original and one copy to the FTC, and three copies to DOJ.

—Electronic filing will ease the delivery of completed filings to the agencies and will facilitate circulation of filings within the agencies, reducing the cost and delay associated with traditional delivery methods. Electronic filings may be submitted quickly and easily at any time.

—Electronic filing will enhance the data entry of filing information into the information systems of the agencies. Some filing data will be electronically entered directly into the agency databases rather than by the more time-consuming method of hand data entry by agency staff. Direct data entry will be less prone to data entry error and potentially more accurate.

In addition to the above benefits, electronic filing complies with the mandate of the Government Paperwork Elimination Act, Pub. L. 105–277, title XVII (Oct. 21, 1998), which requires that agencies, to the extent practicable, provide electronic filing and signature options.

HSR filings are highly confidential. Every step of the electronic filing process has been designed to ensure the confidentiality and security of submitted information—from requiring a valid electronic signature before submission of the package and encrypting the signed package, to securely transmitting the package over the Internet to a secure FTC server and providing a return e-mail that the Form has been received. Once an electronic Form is received, multiple security measures such as authentication via digital certificates, unique permanent ID tags, and secure storage, will maintain a high level of security.

In order to provide maximum flexibility, filers will now have three options for filing: (1) Complete the Form and all attachments in hard copy and deliver them to the designated delivery sites; (2) complete the electronic version of the Form and submit the Form and all attachments electronically; or (3) complete the electronic version of the Form and submit it electronically while providing all documentary attachments in paper copy to the FTC and DOJ as in Option 1 above.

The individual rule modifications necessary to implement electronic filing are described more fully below.

Section 803.1 Notification and Report Form

Paragraph (a) will be amended to eliminate the outdated reference to photostatic or equivalent reproduction in order to apply more broadly, thus including the electronic filing option. The current version of the Form can be obtained on the Commission's Web site, *http://www.ftc.gov*, or *https://www.hsr.gov*.

Section 803.2 Instructions Applicable To Notification and Report Form

In response to Items 4(a) and (b) of the Form, filing persons currently must provide copies of, or direct links to, annual reports, annual audit reports and regularly prepared balance sheets and certain documents, such as 10K's, filed with the Securities and Exchange Commission ("SEC"). These documents may be attached directly to the electronic Form.

Certain formats of electronic files cannot be viewed by the e-filing system. To ensure the submission of compatible files and to avoid problems and delay in processing, a new paragraph, § 803.2(f), has been added, requiring the use of specific file formats when submitting documents or attachments as part of the electronic Form. The filing person is responsible for ensuring that all attachments are of an appropriate file format and is subject to a notice of a deficient filing if an unacceptable format is submitted. *See https://www.hsr.gov* for a current list of acceptable file formats.

Due to technological constraints, the e-filing system has a restriction on the size of file that can be submitted electronically. While this limitation is high enough to make it unlikely to be problematic for most filers, filers should be aware that such a limit exists. *See https://www.hsr.gov* for the current maximum submission size. As technology improves, the maximum submission size will increase and become less and less problematic. New paragraph, § 803.2(f), requires that all submissions fall under the size limitation as specified at *https://www.hsr.gov*.

Section 803.5 Affidavits Required

Section 803.5 requires an affidavit from the filing person attesting to certain facts about the proposed acquisition. The affidavit is required to be attached to the Form at the time of filing. Paragraphs 803.5(a)(1), (a)(3) and (b) and the Instructions are amended to address attachment of the affidavit when using the electronic filing option.

When filing electronically, the electronic affidavit form must be used and submitted along with the filing. The electronic affidavit form does not specify the wording to be used, but has a blank field for the filer to insert the appropriate language. Thus, as with paper filings, persons filling out the electronic Form are free to produce affidavits specific to the transaction.

Section 803.10 Running of Time

Persons required by the act to file notification must wait 30 days (or 15

days in the case of a cash tender offer or bankruptcy) before consummating the transaction. This rule provides the procedures for determining when this waiting period begins and ends. *See* § 803.10(a) and (b). Paragraph (c)(1) defines the "date of receipt and means of delivery" concepts used in determining when the waiting period begins. Paragraph (c)(1) has been amended to provide the date of receipt for electronic filings as the date when delivery of the electronic filing is effected to the Federal Trade Commission server. Paragraph (c)(1)(i) has been updated to the current address of the designated delivery site of the DOJ.

A matter is "effected" to the server when a complete electronic Form has been received by the server maintained by the FTC for the purpose of receiving electronic filings. When receipt of a Form is verified, the system will send an autoreply e-mail to the filing person to notify the person that service has been effected. If a filing is submitted but no autoreply e-mail is received within 24 hours, the filing person should confirm receipt with the FTC by e-mail at "*HSRHelp@hsr.gov*" or phone at (202) 326–3100. Electronic delivery effected after 5 p.m. eastern time on a business day, or at any time on any day other than a business day, shall be deemed effected on the next business day.

If the FTC server is unavailable, it will not be possible to submit a notification electronically until the server is available. A filing person assumes the risk of the server being unavailable. It is important to note that confirmation of the date and time of effected service is not notice of the start of the HSR Waiting Period, but analogous to getting a copy of the filing date-stamped on a transmittal letter for a paper filing. Separate notice will be sent subsequently to the parties to a transaction informing them when the waiting period has begun. As with paper filings, if an electronic notification is deemed deficient, the date of receipt shall be the date on which a filing that complies with the rules is received. *See* § 803.10(c)(2).

If a filing person is submitting the Form electronically but producing hard copies of attachments to the reviewing agencies, delivery is not effected until the Form is received by the FTC server and all hard copy attachments have been received by both agencies as provided in § 803.10(c)(1).

In order to facilitate the disaster preparedness of the agencies (and not specific to electronic filing), part of Paragraph (c)(1) has been modified to allow for the designation of alternate sites for physical delivery of the Form in the event one or both of the FTC and DOJ offices are unexpectedly closed. Notification of the alternate delivery sites will be made through a press release and, if possible, on the *http://www.ftc.gov* and *https://www.hsr.gov* Web sites. The Instructions have been amended to note this.

Appendix to Part 803—Notification and Report Form and Instructions

A number of changes have been made to the Form and Instructions. These changes are discussed below.

Previous Instructions for the Notification and Report Form required that all dollar amounts be rounded to the nearest thousand dollars. When entering the dollar amounts into the Premerger tracking system, the FTC staff rounds these numbers to one-tenth of a million. To allow direct data entry of electronic Form information and to eliminate the need for rounding when data is entered by hand into the Premerger tracking system, the Instructions have been amended to require that all dollar amounts be expressed in millions of dollars to the nearest one-tenth of a million. For example, the value of an acquisition which is $76,340,870 would be expressed as $76.3 on the Form. The Instructions to the Form are amended to reflect this change.

A correction to the instructions, unrelated to the introduction of e-filing, relates to Item 7 of the Form, which requires dollar revenue information to be provided. In the 2005 rulemaking that implemented the use of 2002 NAICS codes, two NAICS subsectors were inadvertently shifted between subsections of Item 7(c) which requires certain geographic information for overlapping NAICS codes. The earlier 1997 NAICS subsectors 513 (broadcasting) and 517 (telecommunications) were referenced in subsection 7(c)(ii), which requires a list of states in which the person filing notification conducts operations. The 2002 NAICS codes renumbered subsector 513 as 515 (broadcasting) and a drafting oversight moved it and subsector 517 (telecommunications) to subsection 7(c)(iv), which requires the additional information of address, city, county and state of each establishment from which revenues were derived by the person filing notification. This correction now properly references subsectors 515 and 517 in subsection 7(c)(ii).

The section of the Instructions relating to the affidavit has been amended to include the required elements specified in § 803.5. The Commission has often received deficient affidavits. Including this information in the Instructions should assist filers in properly preparing the affidavit.

Administrative Procedure Act

These amendments to the HSR rules and Form fall within the category of rules covering agency procedure and practice that are exempt from the notice-and-comment requirements of the Administrative Procedure Act ("APA"). *See* 5 U.S.C. 553(b)(A). Because the amendments are not substantive in nature, they are also not subject to the delayed effective date provisions of the APA. *See* 5 U.S.C. 553(d) (substantive rules may take effect no sooner than 30 days after publication). Accordingly, the Commission has determined to make these amendments effective on June 23, 2006.

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires that the agency conduct an initial and final regulatory analysis of the anticipated economic impact of the proposed amendments on small businesses, except where the agency head certifies that the regulatory action will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605. The Regulatory Flexibility Act requirements apply, however, only to rules or amendments that are subject to the notice-and-comment requirements of the APA. *See* 5 U.S.C. 603, 604. Because these amendments are exempt from those APA requirements, as noted earlier, they are also exempt from the Regulatory Flexibility Act requirements. In any event, because of the size of the transactions necessary to invoke a Hart-Scott-Rodino filing, the premerger notification rules rarely, if ever, affect small businesses. Indeed, amendments to the act in 2001 were intended to reduce the burden of the premerger notification program by exempting all transactions valued at less than $50 million. Further, none of the proposed rule amendments expands the coverage of the premerger notification rules in a way that would affect small business. Accordingly, to the extent, if any, that the Regulatory Flexibility Act applies, the Commission certifies that these proposed rules will not have a significant economic impact on a substantial number of small entities. This document serves as notice of this certification to the Small Business Administration.

Paperwork Reduction Act

The rules and the Form contain information collection requirements, as

defined by the Paperwork Reduction Act, 44 U.S.C. 3501–3518, that have been reviewed and approved by OMB under OMB Control No. 3084–0005. Providing an electronic filing option was contemplated by the FTC's Supporting Statement and OMB's May 13, 2004 approval of the extension of the clearance for the rules and the Form.

List of Subjects in 16 CFR Part 803

Antitrust.

■ For the reasons stated in the preamble, the Federal Trade Commission amends 16 CFR part 803 as set forth below:

PART 803—TRANSMITTAL RULES

■ 1. The authority citation for part 803 continues to read as follows:

Authority: 15 U.S.C. 18a(d).

■ 2. Amend § 803.1 by revising paragraph (a) to read as follows:

§ 803.1 Notification and Report Form.

(a) The notification required by the act shall be the Notification and Report Form set forth in the appendix to this part (803), as amended from time to time. All acquiring and acquired persons required to file notification by the act and these rules shall do so by completing and filing the Notification and Report Form, in accordance with the instructions thereon and these rules. The current version of the Form can be obtained at *http://www.ftc.gov* or *https://www.hsr.gov*.

* * * * *

■ 3. Amend § 803.2 by adding paragraph (f) to read as follows:

§ 803.2 Instructions applicable to Notification and Report Form.

* * * * *

(f) Filings made electronically, including documents or other attachments submitted as part of such filings, must comply with all format and size requirements set forth at *https://www.hsr.gov*. The use of any format or size not specified as acceptable, or any other failure to comply with the applicable format requirements, shall render the entire filing deficient within the meaning of § 803.10(c)(2).

■ 4. Amend § 803.5 by revising the text of paragraph (a)(1) introductory text, paragraph (a)(3), and paragraph (b) to read as follows:

§ 803.5 Affidavits required.

(a)(1) *Section 801.30 acquisitions.* For acquisitions to which § 801.30 applies, the notification required by the act from each acquiring person shall contain an affidavit, attached to the front of the notification, or attached as part of the electronic submission, attesting that the issuer whose voting securities are to be acquired has received notice in writing by certified or registered mail, by wire or by hand delivery, at its principal executive offices, of:

* * * * *

(3) The affidavit required by this paragraph must have attached to it a copy of the written notice received by the acquired person pursuant to paragraph (a)(1) of this section. For electronic filing, an electronic copy of the written notice must be attached as part of the electronic submission.

(b) *Non-section 801.30 acquisitions.* For acquisitions to which § 801.30 does not apply, the notification required by the act shall contain an affidavit, attached to the front of the notification, or attached as part of the electronic submission, attesting that a contract, agreement in principle or letter of intent to merge or acquire has been executed, and further attesting to the good faith intention of the person filing notification to complete the transaction.

* * * * *

■ 5. Amend § 803.10 by revising paragraph (c)(1) to read as follows:

§ 803.10 Running of time.

* * * * *

(c)(1) *Date of receipt and means of delivery.* For purposes of this section, those procedures shall apply.

(i) For paper copy filings, the date of receipt shall be the date on which delivery is effected to the designated offices (Premerger Notification Office, Room 303, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580, and Director of Operations, Antitrust Division, Department of Justice, 950 Pennsylvania Avenue, NW., Room #3335, Washington, DC 20530) during normal business hours. Delivery should be effected directly to the designated offices, either by hand or by certified or registered mail. In the event one or both of the delivery sites are unavailable, the FTC and DOJ may designate alternate sites for delivery of the filing. Notification of the alternate delivery sites will normally be made through a press release and, if possible, on the *http://www.ftc.gov* and *https://www.hsr.gov* Web sites.

(ii) For electronic filings, the date of receipt shall be the date on which delivery of the electronic filing package is effected to the server maintained by the FTC for the purpose of receiving electronic filings.

(iii) For electronic filings with paper copy submission of all attachments, the date of receipt shall be either the date on which delivery of the electronic filing package is effected to the Federal Trade Commission's server or the date on which delivery of the attachments is effected to the designated offices as provided in paragraph (c)(1)(i) of this section, whichever is later.

(iv) Delivery effected after 5 p.m. eastern time on a business day, or at any time on any day other than a business day, shall be deemed effected on the next following business day. If delivery of all required filings to all offices required to receive such filings is not effected on the same date, the date of receipt shall be the latest of the dates on which delivery is effected.

Example: * * *

* * * * *

■ 6. Amend the Appendix to part 803 to revise the instructions applicable to the Notification and Report Form and page 1 of the Notification and Report Form to read as follows:

Appendix to Part 803

BILLING CODE 6750–01–P

ANTITRUST IMPROVEMENTS ACT NOTIFICATION AND REPORT FORM for Certain Mergers and Acquisitions

INSTRUCTIONS

GENERAL

The Notification and Report Form ("the Form") is required to be submitted pursuant to § 803.1(a) of the premerger notification rules ("the rules"). An electronic version of the Form is available at https://www.hsr.gov and may be used for the direct electronic submission of filings or used to generate a print version of the Form for paper copy submission.

These instructions specify the information which must be provided in response to the Items on the Form. The completed Form, together with all documentary attachments, are to be filed with the Federal Trade Commission and the Department of Justice.

Persons providing responses on attachment pages rather than on the Form must submit a complete set of attachment pages with each copy of the Form.

The term "documentary attachments" refers to materials supplied in responses to Item 3(d), Item 4 and to submissions pursuant to §§ 803.1(b) and 803.11 of the rules.

Information-The central office for information and assistance concerning the rules, 16 CFR Parts 801-803, and the Form is Room 303, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, phone (202) 326-3100, e-mail HSRHelp@hsr.gov. Program information and the electronic version of the Form can be found at https://www.hsr.gov.

Definitions-The definitions and other provisions governing this Form are set forth in the rules, 16 CFR Parts 801-803. The governing statute, the rules, and the Statement of Basis and Purpose for the rules are set forth at 43 FR 33450 (July 31, 1978), 44 FR 66781 (November 22, 1979) 48 FR 34427 (July 29, 1983), 61 FR 13688 (March 28, 1996), 66 FR 8693 (February 1, 2001), 70 FR 4994 (January 31, 2005), 70 FR 11513 (March 8, 2005), 70 FR 73369 (December 12, 2005), 70 FR 77312 (December 30, 2005), 71 FR 2943 (January 18, 2006), and Pub. L. No. 106-533, 114 Stat. 2762.

Affidavit-Attach the affidavit required by § 803.5 to the Form. Affidavits are not required if the person filing notification is an acquired person in a transaction covered by § 801.30. (See § 803.5(a)).

For acquisitions to which § 801.30 does not apply, the affidavit must attest that a contract, agreement in principle or letter of intent to merge or acquire has been executed, and further attest to the good faith intention of the person filing notification to complete the transaction.

For acquisitions to which § 801.30 does apply, the affidavit must also attest that the issuer whose voting securities are to be acquired has received notice; the identity of the acquiring person and the fact that the acquiring person intends to acquire voting securities of the issuer; the specific notification threshold that the acquiring person intends to meet or exceed; the fact that the acquisition may be subject to the act, and that the acquiring person will file notification under the act; the anticipated date of receipt of such notification; and the fact that the person within which the issuer is included may be required to file notification under the act.

In the case of a tender offer the affidavit must also attest that the intention to make the tender offer has been publicly announced.

The language found in 28 U.S.C. § 1746 relating to unsworn declarations under penalty of perjury may be used instead of notarization of the affidavit.

Responses-*Each answer* should identify the Item to which it is addressed. Use the reverse side of the corresponding answer sheet or attach separate additional sheets as necessary in answering each Item. Each additional sheet should identify at the top of the page the Item to which it is addressed. Voluntary submissions pursuant to § 803.1(b) should also be identified.

For electronic filings, all Items are automatically identified within the Form. Electronic attachments and endnotes may be appended to the Form for any Item prior to submission.

Enter the name of the person filing notification appearing in Item 1(a) on page 1 of the Form and the date on which the Form is completed at the top of each page of the Form, at the top of any sheets attached to complete the response to any Item, and at the top of the first or cover page of each documentary attachment. For electronic filings, Items 1(a) and 1(b) must be completed before proceeding to pages 2-15 of the Form. Entering the date on page 2 will automatically fill out the date on all other pages of the Form.

If unable to answer any Item fully, give such information as is available and provide a statement of reasons for non-compliance as required by § 803.3. If exact answers to any Item cannot be given, enter best estimates and indicate the sources or bases of such estimates. All financial information should be expressed in millions of dollars rounded to the nearest one-tenth of a million dollars. Estimated data should be followed by the notation, "est." For electronic filings, add an endnote with the notation, "est." to any Item where data is estimated.

Year-All references to "year" refer to calendar year. If the data are not available on a calendar year basis, supply the requested data for the fiscal year reporting period which most nearly corresponds to the calendar year specified. References to "most recent year" mean the most recent calendar or fiscal year for which the requested information is available.

Privacy Act Statement–Section 18a(a) of Title 15 of the U.S. Code authorizes the collection of this information. Our authority to collect Social Security numbers is 31 U.S.C. 7701. The primary use of information submitted on this Form is to determine whether the reported merger or acquisition may violate the antitrust laws. Taxpayer information is collected, used, and may be shared with other agencies and contractors for payment processing, debt collection and reporting purposes. Furnishing the information on the Form is voluntary. Consummation of an acquisition required to be reported by the statute cited above without having provided this information may, however, render a person liable to civil penalties up to $11,000 per day. We also may be unable to process the Form unless you provide all of the requested information.

North American Industry Classification System (NAICS) Data-The Form requests information regarding dollar revenues and lines of commerce at three levels with respect to operations conducted within the United States. (See § 803.2(c)(1).) All persons must submit certain data at the 6-digit NAICS national industry code level. To the extent that dollar revenues are derived from *manufacturing operations* (NAICS Sectors 31-33), data must also be submitted at the *7-digit NAICS product class and 10-digit NAICS product code levels*. The term "dollar revenues" is defined in § 803.2(d).

References-In reporting information by 6-digit NAICS industry code refer to the *North American Industry Classification System - United States, 2002 (2002 NAICS Manual)* published by the Executive Office of the President, Office of Management and Budget. In reporting information by 7-digit NAICS product class and 10-digit NAICS product code refer to the *2002 Numerical List of Manufactured and Mineral Products* (EC02M31R-NL) published by the Bureau of the Census. Information regarding NAICS also is available at www.census.gov.

Thresholds-Filing fee and notification thresholds are adjusted annually pursuant to Section 7A(a)(2) of the Clayton Act based on the change in gross national product, in accordance with Section 8(a)(5). The current threshold values can be found at www.ftc.gov.

Items 5, 7, 8-Supply information only with respect to operations conducted within the United States, including its commonwealths, territories, possessions and the District of Columbia. (See §§ 801.1(k); 803.2(c)(1).)

Information need not be supplied regarding assets or voting securities currently being acquired, when the acquisition is exempt under the statute or rules. (See § 803.2(c)(2).)

The acquired person should limit its response in the case of an acquisition of assets, to the assets being sold, and in the case of an acquisition of voting securities, to the issuer(s) whose voting securities are being acquired and all entities controlled by such issuer. Separate responses may be required where a person is both acquiring and acquired. (See § 803.2(b) and (c).)

Filing- Filers have three options: (1) Complete and return two copies (with one notarized original affidavit and certification and one set of documentary attachments) of this Notification and Report Form to the Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Three copies (with one set of documentary attachments) should be sent to: Director of Operations, Antitrust Division, Department of Justice, 950 Pennsylvania Avenue, N.W., Room #3335, Washington, D.C. 20530. (For FEDEX airbills to the Department of Justice, do not use the 20530 zip code; use zip code 20004); (2) Complete the electronic version of the Form and submit the completed Form with all electronic attachments as directed at https://www.hsr.gov; or (3) Complete the electronic version of the Form (with the electronic affidavit form) and submit it electronically while providing the documentary attachments in paper copy to the FTC and DOJ as in Option 1 above. Note that for option three, the attachments must be listed on the attachments page of the Form and classified as "paper to follow". If one or both delivery sites are unavailable, the agencies may announce, through the media and, if possible, www.ftc.gov and www.hsr.gov, alternate sites for delivery.

ITEM BY ITEM

Affidavit- Attach the affidavit required by § 803.5 to page 1 of the Form. If filing electronically, submit the electronic version of the affidavit as attachment 1. Acquiring persons in transactions covered by § 801.30 are required to also submit a copy of the notice served on the acquired person pursuant to § 803.5(a)(1). (See § 803.5(a)(3).)

Fee Information-The fee for filing the Notification and Report Form is based on the aggregate total amount of assets and voting securities to be held as a result of the acquisition:

Value of assets or voting securities to be held	Fee Amount
greater than $50 million but less than $100 million (as adjusted)	$45,000
$100 million or greater but less than $500 million (as adjusted)	$125,000
$500 million or greater (as adjusted)	$280,000

Amount Paid-Indicate the amount of the filing fee paid. This amount should be net of any banking or financial institution charges. Where an explanatory attachment is required, include in your explanation any adjustments to the acquisition price that serve to lower the fee from that which would otherwise be due. If there is no acquisition price or if the acquisition price may fall within a range that straddles two filing fee thresholds, state the transaction value on which the fee is based and explain the valuation method used. Include in your explanation a description of any exempt assets, the value assigned to each, and the valuation method used.

A Valuation Worksheet available from the Premerger Notification Office will be helpful in determining the value of a transaction for filing and fee purposes. This Worksheet need not be submitted with the Notification and Report Form, but it or something similar should be utilized and retained by the acquiring person in the event Commission staff has questions about the valuation of the transaction.

Payer Identification- Provide the 9-digit Taxpayer Identification Number (TIN) of the acquiring person and, if different from the filing person, the TIN of the payer(s) of the filing fee. A payer or filing person who is a natural person having no TIN must provide the name and social security number (SSN) of the payer. If the payer or filing person is a foreign person, only the name of the payer and the name of the filing person need be supplied if different.

Method of Payment-Check the box indicating the method of fee payment. If paying by electronic wire transfer (EWT), provide the name of the financial institution from which the EWT is being sent and the confirmation number.

To insure filing fees paid by EWT are attributed to the appropriate payer filing notification, the payer must provide the following information to the financial institution initiating the EWT:

The Department of Treasury's ABA Number: 021030004; and
The Federal Trade Commission's ALC Number: 29000001.

If the name used to transmit the EWT differs from the filer's name, provide the alternative name. If the confirmation number is unavailable at the time notification is filed, provide this information by letter within one business day of filing.

If paying by certified check or money order send the payment to the Premerger Notification Office at the address above.

Corrective Filing-Put an X in the appropriate box to indicate whether the notification is a corrective filing being made for an acquisition that has already taken place in violation of the statute. Attach a detailed, written explanation signed by a company official explaining (1) how the violation occurred, (2) when and how the violation was discovered and (3) what steps will be taken to ensure compliance in the future.

Transactions Subject to Foreign Antitrust Notification-If to the knowledge or belief of the filing person at the time of filing this notification, a foreign antitrust or competition authority has been or will be notified of the proposed transaction, list the name of each such authority and the date or anticipated date of each such notification. Response to this item is voluntary.

Cash Tender Offer-Put an X in the appropriate box to indicate whether the acquisition is a cash tender offer.

Bankruptcy-Put an X in the appropriate box to indicate whether the acquired person's filing is being made by a trustee in bankruptcy or a debtor-in-possession for a transaction that is subject to section 363(b) of the Bankruptcy Code (11USC § 363).

Early Termination-Put an X in the yes box to request early termination of the waiting period. Notification of each grant of early termination will be published in the Federal Register as required by § 7A(b)(2) of the Clayton Act and on the FTC web site www.ftc.gov.

ITEM 1

Note: When using the electronic version of the Form, Items 1(a) and 1(b) must be completed before proceeding to pages 2-15 of the Form.

Item 1(a)-Give the name and headquarters address of the person filing notification. The name of the person is the name of the ultimate parent entity included within that person.

Item 1(b)-Indicate whether the person filing notification is an acquiring person, an acquired person, or both an acquiring and acquired person. (See § 801.2.)

Item 1(c)-Put an X in the appropriate box to indicate whether the person in Item 1(a) is a corporation, unincorporated entity or other (specify).

Item 1(d)-Put an X in the appropriate box to indicate whether data furnished is by calendar year or fiscal year. If fiscal year, specify period.

Item 1(e)-Put an X in the appropriate box to indicate if this Form is being filed on behalf of the ultimate parent entity by another entity within the same person authorized by it to file notification on its behalf pursuant to § 803.2(a), or if this Form is being filed pursuant to § 803.4 on behalf of a foreign person. Then provide the name and mailing address of the entity filing notification on behalf of the reporting person named in Item 1(a) of the Form.

Item 1(f)-If an entity within the person filing notification other than the ultimate parent entity listed in Item 1(a) is the entity which is making the acquisition, or if the assets, voting securities or non-corporate interests of an entity other than the ultimate parent entity listed in Item 1(a) are being acquired, provide the name and mailing address of that entity and the percentage of its voting securities or non-corporate interest held by the person named in Item 1(a) above. (If control is effected by means other than the direct holding of the entity's voting securities, describe the intermediaries or the contract through which control is effected (see § 801.1(b)).

Item 1(g)-Print or type the name and title, firm name, address, telephone number, fax number and e-mail address of the individual to contact regarding this Notification and Report Form. (See § 803.20(b)(2)(ii).)

Item 1(h)-Foreign filing persons print or type the name and title, firm name, address, telephone number, fax number and e-mail address of an individual located in the United States designated for the limited purpose of receiving notice of the issuance of a request for additional information or documentary material. (See § 803.20(b)(2)(iii).)

ITEM 2

Item 2(a)-Give the names of all ultimate parent entities of acquiring and acquired person which are parties to the acquisition whether or not they are required to file notification.

Item 2(b)-Put an X in all the boxes that apply to this acquisition.

Item 2(c)-*Acquiring persons* put an X in the box to indicate the highest threshold for which notification is being filed (see § 801.1(h)): $50 million (as adjusted), $100 million (as adjusted), $500 million (as adjusted), 25% (if value of voting securities to be held is greater than $1 billion, as adjusted), or 50%. The notification threshold selected should be based on voting securities only that will be held as a result of the acquisition.

Note that the 50% notification threshold is the highest threshold and should be used for any acquisition of 50% or more of the voting securities of an issuer, regardless of the value of the voting securities (e.g. an acquisition of 100% of the voting securities of an issuer, valued in excess of $500 million (as adjusted) would cross the 50% notification threshold, not the $500 million (as adjusted) threshold.

Item 2(d)-*Assets and voting securities held as a result of the acquisition* (to be completed by both acquiring and acquired persons). State:

Item 2(d)(i)-the value of voting securities;

Item 2(d)(ii)-the percentage of voting securities;

Item 2(d)(iii)-the value of assets;

Item 2(d)(iv)-the value of non-corporate interests;

Item 2(d)(v)-the aggregate total amount of voting securities, assets and non-corporate interests of the acquired person to be held by each acquiring person, as a result of the acquisition (see §§ 801.12, 801.13, and 801.14).

Item 2(e)-Acquiring persons must provide the name(s) of the person(s) who performed any fair market valuation used to determine the aggregate total value of the transaction reported in Item 2(d)(v).

ITEM 3

Item 3(a)-*Description of acquisition.* Briefly describe the transaction. Include a list of the name and mailing address of each acquiring and acquired person, whether or not required to file notification. Indicate for each party whether assets or voting securities (or both) are to be acquired. Also indicate what consideration will be received by each party. In describing the acquisition, include the expected dates of any major events required to consummate the transaction (e.g., stockholders' meetings, filing of requests for approval, other public filings, terminations of tender offers) and the scheduled consummation date of the transaction.

If the voting securities are to be acquired from a holder other than the issuer (or an entity within the same person as the issuer) separately identify (if known) such holder and the issuer of the voting securities. Acquiring persons involved in tender offers should describe the terms of the offer.

Item 3(b)(i)-*Assets to be acquired.* This Item is to be completed only to the extent that the transaction is an acquisition of assets. Describe all general classes of assets (other than cash and securities) to be acquired by each party to the transaction, giving dollar values thereof.

Give the total value of the assets to be acquired in this transaction.

Examples of general classes of assets other than cash and securities are land, merchandising inventory, manufacturing plants (specify location and products produced), and retail stores. For each general class of assets, indicate the page or paragraph number of the contract or other document submitted with this Form in which the assets are more particularly described.

Item 3(b)(ii)-*Assets held by acquiring person.* (To be completed by acquiring persons). If assets of the acquired person (see § 801.13) are presently held by the person filing notification, furnish a description of each general class of such assets in the manner required by Item 3(b)(i), and the dollar value or estimated dollar value at the time they were acquired.

Item 3(b)(iii) –*Assets held by unincorporated entities.* This item is to be completed only to the extent that the transaction is an acquisition of non-corporate interests. Describe all general classes of assets (other than cash and securities) to be acquired by each party to the transaction. For examples of general classes of assets refer to Item 3(b)(i).

Item 3(c)-*Voting securities to be acquired.* Furnish the following information separately for each issuer whose voting securities will be acquired in the acquisition: (If, as a result of the acquisition, the acquiring person will hold 100 percent of the voting securities of the acquired issuer or if the acquisition is a merger or consolidation (see § 801.2(d)), the parties may so state and provide the total dollar value of the transaction instead of responding to Items 3(c)(i)-3(c)(vi).

Item 3(c)(i)-List each class of voting securities (including convertible voting securities) which will be outstanding after the acquisition has been completed. If there is more than one class of voting securities, include a description of the voting rights of each class. Also list each class of non-voting securities which will be acquired in the acquisition;

Item 3(c)(ii)-Total number of shares of each class of securities listed which will be outstanding after the acquisition has been completed;

Item 3(c)(iii)-Total number of shares of each class of securities listed which will be acquired in this acquisition. If there is more than one acquiring person for any class of securities, show data separately for each acquiring person;

Item 3(c)(iv)-Identity of each person acquiring any securities of any class listed. If there is more than one acquiring person for any class of securities, show data separately for each acquiring person;

Item 3(c)(v)-Dollar value of securities of each class listed to be acquired in this transaction (see § 801.10). If there is more than one acquiring person of any class of securities, show data separately for each acquiring person (If the exact dollar value cannot be determined at the time of filing, provide an estimated value and indicate the basis on which the estimate was made);

Item 3(c)(vi)-Total number of each class of securities listed which will be held by acquiring person(s) after the acquisition has been accomplished. If there is more than one acquiring person for any class of securities, show data separately for each acquiring person;

Item 3(d)-Furnish copies of final or most recent versions of all documents which constitute the agreement among the acquiring person(s) and the person(s) whose voting securities or assets are to be acquired. (For paper copy submissions, do not attach these documents to the Form.)

ITEM 4

Furnish one copy of each of the following documents. For each entity included within the person filing notification which has prepared its own such documents different from those prepared by the person filing notification, furnish, in addition, one copy of each document from each such other entity. Furnish copies of:

Item 4(a)-all of the following documents which have been filed with the United States Securities and Exchange Commission (or are to be filed contemporaneously in connection with this acquisition); the most recent proxy statement and Form 10-K, each dated not more than three years prior to the date of this Notification and Report Form; all Forms 10-Q and 8-K filed since the end of the period reflected by the Form 10-K being supplied; any registration statement filed in connection with the transaction for which notification is being filed; if the acquisition is a tender offer, Schedule TO. Alternatively, the person filing notification may incorporate a document by reference to an internet address directly linking to the document (see §803.2(e)(2));

NOTE: In response to Item 4(a), the person filing notification may incorporate by reference documents submitted with an earlier filing as explained in the staff formal interpretations dated April 10, 1979, and April 7, 1981, and in § 803.2(e).

Item 4(b)-the most recent annual reports and most recent annual audit reports (of person filing notification and of each unconsolidated United States issuer included within such person) and, if different, the most recently regularly prepared balance sheet of the person filing notification and of each unconsolidated United States issuer included within such person. Alternatively, the person filing notification may incorporate a document by reference to an internet address directly linking to the document (see §803.2(e)(2));

Item 4(c)-all studies, surveys, analyses and reports which were prepared by or for any officer(s) or director(s) (or, in the case of unincorporated entities, individuals exercising similar functions) for the purpose of evaluating or analyzing the acquisition with respect to market shares, competition, competitors, markets, potential for sales growth or expansion into product or geographic markets, and indicate (if not contained in the document itself) the date of preparation, and the name and title of each individual who prepared each such document.

Persons filing notification may provide an optional index of documents called for by Item 4 of the Answer Sheets.

NOTE: If the person filing notification withholds any documents called for by Item 4(c) based on a claim of privilege, the person must provide a statement of reasons for such noncompliance as specified in the staff formal interpretation dated September 13, 1979, and § 803.3(d).

ITEMS 5 through 8

NOTE: For Items 5 through 8, the acquired person should limit its response in the case of an acquisition of assets, to the assets to be sold, in the case of an acquisition of non-corporate interests, to the unincorporated entity being acquired, and in the case of an acquisition of voting securities, to the issuer(s) whose voting securities are being acquired and all entities controlled by such issuer. A person filing as both acquiring and acquired may be required to provide a separate response to these items in each capacity so that it can properly limit its response as an acquired person. (See § 803.2(b) and (c).)

Items 5(a)-5(c): These items request information regarding dollar revenues and lines of commerce at three NAICS levels with respect to operations conducted within the United States. (See § 803.2(c)(1).) All persons must submit certain data at the 6-digit NAICS industry code level. To the extent that dollar revenues are derived from manufacturing operations (NAICS Sectors 31-33), data must also be submitted at the 7-digit product class level and 10-digit product code level (NAICS-based codes). Where certain published NAICS industry codes contain only 5 digits, the filing person should add a zero (0) after the fifth (5^{th}) digit.

NOTE: See "References" listed in the General Instructions to the Form. Refer to the *2002 NAICS Manual* for the 6-digit industry codes and the *2002 Numerical List of Manufactured and Mineral Products (2002 Numerical List)* for the 7-digit product classes and 10-digit product codes. Report revenues for the 7-digit NAICS product classes and 10-digit NAICS product codes using the codes in the columns labeled "Product code" in the *2002 Numerical List*. Nondepository credit intermediation (NAICS Industry Group Code 5222); securities, commodity contracts, and other financial investments (NAICS Subsector 523); funds, trusts, and other financial vehicles (NAICS Subsector 525); real estate (NAICS Subsector 531); lessors of nonfinancial intangible assets, except copyright works (NAICS Subsector 533); and management of companies and enterprises (NAICS Subsector 551) should identify or explain the revenues reported (e.g. dollar sales receipts).

Persons filing notification should include the total dollar revenues for all entities included within the person filing notification at the time this Notification and Report Form is prepared (even if such entities have become included within the person since 2002). For example, if the person filing notification acquired an entity in 2003, it must include that entity's 2002 revenues in items 5(a) and 5(b)(i). It must also include that entity's most recent year's revenues in Item 5(b)(iii) and/or Item 5(c).

Item 5(a)-*Dollar revenues by industry.* Provide aggregate 6-digit NAICS industry data for 2002.

Item 5(b)(i)-*Dollar revenues by manufactured product.* Provide the following information on the aggregate operations for the person filing notification for 2002 for each 10-digit NAICS product of the person in NAICS Sectors 31-33 (manufacturing industries).

NOTE: Where the *2002 Numerical List* denotes footnote 1 at the end of a specific Subsector, refer to Appendices A, and then B for detail collected in a specified Current Industrial Report. You must provide 10-digit NAICS product codes and descriptions listed in Appendix B.

Item 5(b)(ii)-*Products added or deleted.* Within NAICS Sectors 31-33 (manufacturing industries), identify each product of the person filing notification added or deleted subsequent to 2002, indicate the year of addition or deletion, and state total dollar revenues in the most recent year for each product that has been added. Products may be identified either by 10-digit NAICS product code or in the manner ordinarily used by the person filing notification.

Do not include products added since 2002 by reason of mergers or acquisitions of entities occurring since 2002. Dollar revenues derived from such products should be included in response to Item 5(b)(i). However, if an entity acquired since 2002 by the person filing notification (and now included within the person) itself has added any products since 2002, these products and the dollar revenues derived therefrom should be listed here. Products deleted by reason of dispositions of assets constituting less than substantially all of the assets of an entity since 2002 should also be listed here.

Item 5(b)(iii)-*Dollar revenues by manufactured product class.* Provide the following information concerning the aggregate operations of the person filing notification for the most recent year for each 7-digit NAICS product class within NAICS Sectors 31-33 (manufacturing industries) in which the person engaged. If such data have not been compiled for the most recent year, estimates of dollar revenues by 7-digit NAICS product class may be provided if a statement describing the method of estimation is furnished.

Item 5(c)-*Dollar revenues by non-manufacturing industry*. Provide the following information concerning the aggregate operations of the person filing notification for the most recent year for each 6-digit NAICS industry code in NAICS Sectors other than 31-33 (manufacturing industries) in which the person engaged. If such data have not been compiled for the most recent year, estimates of dollar revenues by 6-digit NAICS industry code may be provided if a statement describing the method of estimation is furnished. Industries for which the dollar revenues totaled less than one million dollars in the most recent year may be omitted.

NOTE: *This million dollar minimum is applicable only to Item 5(c).*

JOINT VENTURE CORPORATION OR UNINCORPORATED ENTITY

Item 5(d)-Supply the following information only if the acquisition is the formation of a joint venture corporation or unincorporated entity. (See § 801.40.)

Item 5(d)(i)-List the name and mailing address of the joint venture corporation or unincorporated entity.

Item 5(d)(ii)(A)-List contributions that each person forming the joint venture corporation or unincorporated entity has agreed to make, specifying when each contribution is to be made and the value of the contribution as agreed by the contributors.

Item 5(d)(ii)(B)-Describe any contracts or agreements whereby the joint venture corporation or unincorporated entity will obtain assets or capital from sources other than the persons forming it.

Item 5(d)(ii)(C)-Specify whether and in what amount the persons forming the joint venture corporation or unincorporated entity have agreed to guarantee its credit or obligations.

Item 5(d)(ii)(D)-Describe fully the consideration which each person forming the joint venture corporation or unincorporated entity will receive in exchange for its contribution(s).

Item 5(d)(iii)-Describe generally the business in which the joint venture corporation or unincorporated entity will engage, including location of headquarters and principal plants, warehouses, retail establishments or other places of business, its principal types of products or activities, and the geographic areas in which it will do business.

Item 5(d)(iv)-Identify each 6-digit NAICS industry code in which the joint venture corporation or unincorporated entity will derive dollar revenues. If the joint venture corporation or unincorporated entity will be engaged in manufacturing also specify each 7-digit NAICS product class in which it will derive dollar revenues.

ITEM 6

This item need not be completed by a person filing notification only as an acquired person if only assets are to be acquired. Persons filing notification may respond to Items 6(a), 6(b), or 6(c) by referencing a "document attachment" furnished with this Form if the information so referenced is a complete response and is up-to-date and accurate. Indicate for each Item the specific page(s) of the document that are responsive to that Item.

Item 6(a)-*Entities within the person filing notification*. List the name and headquarters mailing address of each entity included within the person filing notification. Entities with total assets of less than $10 million may be omitted.

Item 6(b)-*Shareholders of person filing notification*. For each entity (including the ultimate parent entity) included within the person filing notification the voting securities of which are held (see § 801.1(c)) by one or more other persons, list the issuer and class of voting securities, the name and headquarters mailing address of each other person which holds five percent or more of the outstanding voting securities of the class and the number and percentage held by that person. Holders need not be listed for entities with total assets of less than $10 million.

Item 6(c)-Holdings of person filing notification. If the person filing notification holds voting securities of any issuer not included within the person filing notification, list the issuer and class, the number and percentage held, and (optionally) the entity within the person filing notification which holds the securities. Holdings of less than five percent of the outstanding voting securities of any issuers, and holding of issuers with total assets of less than $10 million may be omitted.

ITEM 7

If, to the knowledge or belief of the person filing notification, the acquiring person filing notification derived dollar revenues in the most recent year from operations in industries within any 6-digit NAICS industry code in which any acquired person that is a party to the acquisition also derived dollar revenues in the most recent year (or in which a joint venture corporation or unincorporated entity will derive dollar revenues), then for each such 6-digit NAICS industry code:

Item 7(a)-supply the 6-digit NAICS industry code and description for the industry;

Item 7(b)-list the name of each person which is a party to the acquisition which also derived dollar revenues in the 6-digit industry;

Item 7(c)-*Geographic market information*:

Item 7(c)(i)-for each 6-digit NAICS industry code within NAICS Sectors 31-33 (manufacturing industries) listed in Item 7(a) above, list the states or, if desired, portions thereof in which, to the knowledge or belief of the person filing notification, the products in that 6-digit NAICS code produced by the person filing notification are sold without a significant change in their form, whether they are sold by the person filing notification or by others to whom such products have been sold or resold;

Item 7(c)(ii)- for each 6-digit NAICS industry code within NAICS Sectors or Subsectors 11 (agriculture, forestry, fishing and hunting); 21 (mining); 22 (utilities); 23 (construction); 48-49 (transportation and warehousing); 511(publishing industries); 515 (broadcasting); 517 (telecommunications); and 71 (arts, entertainment and recreation) listed in item 7(a) above, list the states or, if desired, portions thereof in which the person filing notification conducts such operations;

Item 7(c)(iii)-for each 6-digit NAICS industry code within NAICS Sector 42 (wholesale trade) listed in Item 7(a) above, list the states or, if desired, portions thereof in which the customers of the person filing notification are located;

Item 7(c)(iv)-for each 6-digit NAICS industry code within NAICS Sectors or Subsectors 44-45 (retail trade); 512 (motion picture and sound recording industries); 521 (monetary authorities-central bank); 522 (credit intermediation and related activities); 532 (rental and leasing services); 62 (health care and social assistance); 72 (accommodations and food services); 811 (repair and maintenance); and 812 (personal and laundry services) listed in Item 7(a) above, provide the address, **arranged by state, county and city or town,** of each establishment from which dollar revenues were derived in the most recent year by the person filing notification;

Item 7(c)(v)- for each 6-digit NAICS industry code within NAICS Subsectors 516 (internet publishing & broadcasting); 518 (internet service providers); 519 (other information services); 523 (securities, commodity contracts and other financial investments and related activities); 525 (funds, trusts and other financial vehicles); 53 (real estate and rental and leasing); 54 (professional, scientific and technical services); 55 (management of companies and enterprises); 56 (administrative and support and waste management and remediation services); 61 (educational services); 813 (religious, grantmaking, civic, professional, and similar organizations); and NAICS Industry Group 5242 (insurance agencies and brokerages, and other insurance related activities) listed in Item 7(a) above, list the states or, if desired, portions thereof in which establishments were located from which the person filing notification derived revenues in the most recent year; and

Item 7(c)(vi)-for each 6-digit NAICS industry code within NAICS Industry Group 5241 (insurance carriers) listed in Item 7(a) above, list the state(s) in which the person filing notification is licensed to write insurance.

NOTE: Except in the case of those NAICS major industries in the Sectors and Subsectors mentioned in Item 7(c)(iv) above, the person filing notification may respond with the word "national" if business is conducted in all 50 states.

ITEM 8

Item 8-*Previous acquisitions* (to be completed by acquiring persons). Determine each 6-digit NAICS industry code listed in Item 7(a) above, in which the person filing notification derived dollar revenues of $1 million or more in the most recent year and in which either the acquired issuer derived revenues of $1 million or more in the recent year (or, in which, in the case of the formation of a joint venture corporation or unincorporated entity, the joint venture corporation or unincorporated entity reasonably can be expected to derive revenues of $1 million or more), or revenues of $1 million or more in the most recent year were attributable to the acquired assets. For each such 6-digit NAICS industry code, list all acquisitions made by the person filing notification in the five years prior to the date of filing of entities deriving dollar revenues in that 6-digit NAICS industry code. List only acquisitions of 50 percent or more of the voting securities of an issuer which had annual net sales or total assets greater than $10 million in the year prior to the acquisition, and any acquisitions of assets valued at or above the statutory size-of-transaction test at the time of their acquisition.

For each such acquisition, supply:

(a) the name of the entity acquired;

(b) the headquarters address of the entity prior to the acquisition;

(c) whether securities or assets were acquired;

(d) the consummation date of the acquisition; and

(e) the 6-digit (NAICS code) industries by (number and description) identified above in which the acquired entity derived dollar revenues.

CERTIFICATION- (See § 803.6.)

The language found in 28 U.S.C. § 1746 relating to unsworn declarations under penalty of perjury may be used instead of notarization of the certification.

TRANSACTION NUMBER ASSIGNED ☐☐☐☐☐☐☐☐

16 C.F.R. Part 803 - Appendix
NOTIFICATION AND REPORT FORM FOR CERTAIN MERGERS AND ACQUISITIONS

Approved by OMB
3084-0005
Expires 05/31/2007

THE INFORMATION REQUIRED TO BE SUPPLIED ON THESE ANSWER SHEETS IS SPECIFIED IN THE INSTRUCTIONS

↓ Attach the Affidavit required by § 803.5 to this page.

FEE INFORMATION

AMOUNT PAID $_____

In cases where your filing fee would be higher if based on acquisition price or where the acquisition price is undetermined to the extent that it may straddle a filing fee threshold, attach an explanation of how you determined the appropriate fee *(acquiring persons only)*.

Attachment Number _____

TAXPAYER IDENTIFICATION NUMBER _____
or SOCIAL SECURITY NUMBER of payer _____
(acquiring person (and payer if different from acquiring person))

CHECK ATTACHED ☐ MONEY ORDER ATTACHED ☐

WIRE TRANSFER ☐ CONFIRMATION NO. _____

FROM: NAME OF INSTITUTION _____

NAME OF PAYER (if different from PERSON FILING) _____

IS THIS A CORRECTIVE FILING? ☐ YES ☐ NO

IS THIS ACQUISITION SUBJECT TO FOREIGN FILING REQUIREMENTS? ☐ YES ☐ NO
If YES, list jurisdictions: *(voluntary)* _____

IS THIS ACQUISITION A CASH TENDER OFFER? ☐ YES ☐ NO | BANKRUPTCY? ☐ YES ☐ NO

DO YOU REQUEST EARLY TERMINATION OF THE WAITING PERIOD? *(Grants of early termination are published in the Federal Register AND on the FTC web site www.ftc.gov)*
☐ YES ☐ NO

ITEM 1 – PERSON FILING

1(a) NAME and
HEADQUARTERS ADDRESS
of PERSON FILING

1(b) PERSON FILING NOTIFICATION IS
☐ an acquiring person ☐ an acquired person ☐ both

1(c) PUT AN "X" IN THE APPROPRIATE BOX TO DESCRIBE PERSON FILING NOTIFICATION
☐ Corporation ☐ Unincorporated Entity ☐ Other *(Specify)*: _____

1(d) DATA FURNISHED BY
☐ calendar year ☐ fiscal year *(specify period)* _____ (month/year) to _____ (month/year)

THIS FORM IS REQUIRED BY LAW and must be filed separately by each person which, by reason of a merger, consolidation or acquisition, is subject to §7A of the Clayton Act, 15 U.S.C. §18a, as added by Section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. No. 94-435, 90 Stat. 1390, and rules promulgated thereunder (hereinafter referred to as "the rules" or by section number). The statute and rules are set forth in the *Federal Register* at 43 FR 33450; the rules may also be found at 16 CFR Parts 801-03. Failure to file this **Notification and Report Form**, and to observe the required waiting period before consummating the acquisition in accordance with the applicable provisions of 15 U.S.C. §18a and the rules, subjects any "person," as defined in the rules, or any individuals responsible for noncompliance, to liability for a penalty of not more than $11,000 for each day during which such person is in violation of 15 U.S.C. §18a.

Pursuant to the Hart-Scott-Rodino Act, information and documentary material filed in or with this Form is confidential. It is exempt from disclosure under the Freedom of Information Act, and may be made public only in an administrative or judicial proceeding, or disclosed to Congress or to a duly authorized committee or subcommittee of Congress.

Filing - Complete and return *two* copies (with one original affidavit and certification and one set of documentary attachments) of this Notification and Report Form to: Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. *Three* copies (with one set of documentary attachments) should be sent to: Director of Operations and Merger Enforcement, Antitrust Division, Department of Justice, 950 Pennsylvania Avenue N.W., Room #3335, Washington, D.C. 20530. (For FEDEX airbills to the Department of Justice do not use the 20530 zip code; use zip code 20004.)

DISCLOSURE NOTICE - Public reporting burden for this report is estimated to vary from 8 to 160 hours per response, with an average of 39 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this report, including suggestions for reducing this burden to:
Premerger Notification Office, H-303, Federal Trade Commission,
Washington, DC 20503 and
Office of Information and Regulatory Affairs, Office of Management and Budget,
Washington, DC 20580

Under the Paperwork Reduction Act, as amended, 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. That number is 3084-0005, which also appears in the upper right-hand corner of the first page of this form.

Privacy Act Statement–Section 18a(a) of Title 15 of the U.S. Code authorizes the collection of this information. Our authority to collect Social Security numbers is 31 U.S.C. 7701. The primary use of information submitted on this Form is to determine whether the reported merger or acquisition may violate the antitrust laws. Taxpayer information is collected, used, and may be shared with other agencies and contractors for payment processing, debt collection and reporting purposes. Furnishing the information on the Form is voluntary. Consummation of an acquisition required to be reported by the statute cited above without having provided this information may, however, render a person liable to civil penalties up to $11,000 per day. We also may be unable to process the Form unless you provide all of the requested information.

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 06–5638 Filed 6–22–06; 8:45 am]

BILLING CODE 6750–01–C

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 524

[BOP–1131–F]

RIN 1120–AB32

Classification and Program Review

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons (Bureau) revises its regulations on classification and program review to remove unnecessary regulations and to ensure that classification and program review procedures adequately address inmate needs.

DATES: This rule is effective July 24, 2006.

FOR FURTHER INFORMATION CONTACT: Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 307–2105, e-mail *boprules@bop.gov.*

SUPPLEMENTARY INFORMATION: In this document, we revise and streamline the regulations regarding inmate classification and program review, which currently describe procedure, practice, and general statements of policy, to remove an unnecessary level of operational details with regard to the classification and program review process. A proposed rule on this subject was published on November 3, 2005 (70 FR 66814). Because we received no comments on the proposed rule, we now publish the final rule without substantive change.

For clarification, we make one minor change to § 524.11(d). Formerly, this paragraph stated that an inmate "may choose not to participate in an offered [work] program unless the program is a work assignment or required by Bureau policy, court order, or statute," The repetition of similar terms, such as "work program" and "work assignment" may have been confusing. We therefore revise this paragraph to clarify that an inmate "must participate in this work assignment and any other program required by Bureau policy, court order, or statute," but that an inmate "may choose not to participate in other voluntary programs."

Details removed from the regulations will be addressed in our corresponding policy statement on the classification and review program. We do not, by this rule, intend to make any substantive changes to the current rules or to the classification and program review system. We merely intend to clarify and streamline the existing rules.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, "Regulatory Planning and Review", section 1(b), Principles of Regulation. The Director, Bureau of Prisons has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), and accordingly this rule has not been reviewed by the Office of Management and Budget.

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, under Executive Order 13132, we determine that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Director of the Bureau of Prisons, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), reviewed this regulation and by approving it certifies that it will not have a significant economic impact upon a substantial number of small entities for the following reasons: This rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 28 CFR Part 524

Prisoners.

Harley G. Lappin,

Director, Bureau of Prisons.

■ Under rulemaking authority vested in the Attorney General in 5 U.S.C. 301; 28 U.S.C. 509, 510 and delegated to the Director, Bureau of Prisons in 28 CFR 0.96, we amend 28 CFR part 524 as set forth below.

Subchapter B—Inmate Admission, Classification, and Transfer

PART 524—CLASSIFICATION OF INMATES

■ 1. Revise the authority citation for 28 CFR part 524 to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3521–3528, 3621, 3622, 3624, 4001, 4042, 4046, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 21 U.S.C. 848; 28 U.S.C. 509, 510.

■ 2. Revise subpart B to read as follows:

Subpart B—Classification and Program Review of Inmates

Sec.

Subpart B—Classification and Program Review of Inmates

§ 524.10 Purpose.

The purpose of this subpart is to explain the Bureau of Prisons (Bureau) process for classifying newly committed inmates and conducting program reviews for all inmates except:

(a) Pretrial inmates, covered in 28 CFR part 551; and

(b) Inmates committed for study and observation.

§ 524.11 Process for classification and program reviews.

(a) *When:*

(1) Newly committed inmates will be classified within 28 calendar days of arrival at the institution designated for service of sentence.

(2) Inmates will receive a program review at least once every 180 calendar days. When an inmate is within twelve

months of the projected release date, staff will conduct a program review at least once every 90 calendar days.

(b) *Inmate appearance before classification team:*

(1) Inmates will be notified at least 48 hours before that inmate's scheduled appearance before the classification team (whether for the initial classification or later program reviews).

(2) Inmates may submit a written waiver of the 48-hour notice requirement.

(3) The inmate is expected to attend the initial classification and all later program reviews. If the inmate refuses to appear at a scheduled meeting, staff must document on the Program Review Report the inmate's refusal and, if known, the reasons for refusal, and give a copy of this report to the inmate.

(c) *Program Review Report:* Staff must complete a Program Review Report at the inmate's initial classification. This report ordinarily includes information on the inmate's apparent needs and offers a correctional program designed to meet those needs. The Unit Manager and the inmate must sign the Program Review Report, and a copy must be given to the inmate.

(d) *Work Programs:* Each sentenced inmate who is physically and mentally able is assigned to a work program at initial classification. The inmate must participate in this work assignment and any other program required by Bureau policy, court order, or statute. The inmate may choose not to participate in other voluntary programs.

[FR Doc. E6–9829 Filed 6–22–06; 8:45 am]
BILLING CODE 4410–05–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, and 1926

[Docket No. H054A]

RIN 1218–AB45

Occupational Exposure to Hexavalent Chromium; Corrections

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Correcting amendments.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is correcting errors in the final rule addressing occupational exposure to hexavalent chromium that appeared in the **Federal Register** on February 28, 2006.

DATES: Effective June 23, 2006.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Ropp, Director, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1999.

SUPPLEMENTARY INFORMATION: On February 28, 2006 (71 FR 10099), OSHA issued a revised standard for occupational exposure to hexavalent chromium. Subsequently, errors were discovered in the regulatory text. This notice is being published to correct these errors.

Correction of Publication

The following correcting amendments are made to the final rule for Chromium (VI) published in the **Federal Register** on February 28, 2006 (71 FR 10099).

■ Accordingly, 29 CFR parts 1910, 1915, and 1926 are corrected by making the following correcting amendments.

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

■ 1. The authority citation for part 1910 continues to read as follows:

Authority: Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order Numbers 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), or 5–2002 (67 FR 65008), as applicable.

■ 2. Section 1910.1000 is corrected as follows:

■ a. In Table Z–1 by revising the entry for "tert-Butyl chromate (as CrO_3)" and footnote 5, removing the entry for "Chromic acid and chromates (as CrO_3)", and adding a new footnote 6;

■ b. In Table Z–2 by revising footnote c.

The revisions and additions read as follows:

§ 1910.1000 Air contaminants.

* * * * *

TABLE Z–1.—LIMITS FOR AIR CONTAMINANTS

Substance	CAS No.[c]	ppm[a] [1]	mg/m^3[b] [1]	Skin designation
* * * *	*	*	*	*
tert-Butyl chromate (as CrO_3); see 1910.1026[6]	1189–85–1			
* * * *	*	*	*	*
Chromium (VI) compounds; see 1910.1026[5].				
* * * *	*	*	*	*

[1] The PELs are 8-hour TWAs unless otherwise noted; a (C) designation denotes a ceiling limit. They are to be determined from breathing-zone air samples.

[a] Parts of vapor or gas per million parts of contaminated air by volume at 25 °C and 760 torr.

[b] Milligrams of substance per cubic meter of air. When entry is in this column only, the value is exact; when listed with a ppm entry, it is approximate.

[c] The CAS number is for information only. Enforcement is based on the substance name. For an entry covering more than one metal compound, measured as the metal, the CAS number for the metal is given—not CAS numbers for the individual compounds.

* * * * *

[5] See Table Z–2 for the exposure limit for any operations or sectors where the exposure limit in § 1910.1026 is stayed or is otherwise not in effect.

[6] If the exposure limit in § 1910.1026 is stayed or is otherwise not in effect, the exposure limit is a ceiling of 0.1 mg/m^3.

TABLE Z–2

Substance	8-hour time weighted average	Acceptable ceiling concentration	Acceptable maximum peak above the acceptable ceiling concentration for an 8-hr shift	
			Concentration	Maximum duration
* * * * * * *				
Chromic acid and chromates (Z37.7–1971) (as CrO_3)[c]	.....	1 mg/10m³.		
* * * * * * *				

* * * * *

[c] This standard applies to any operations or sectors for which the exposure limit in the Chromium (VI) standard, § 1910.1026, is stayed or is otherwise not in effect.

* * * * *

PART 1915—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR SHIPYARD EMPLOYMENT

■ 3. The authority citation for part 1915 continues to read as follows:

Authority: Section 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); sections 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017) or 5–2002 (67 FR 65008), as applicable.

■ 4. Section 1915.1000 is corrected in Table Z by revising the entry for "tert-Butyl chromate (as CrO_3)", removing the entry for "Chromic acid and chromates (as CrO_3)", and adding an entry for "Chromium (VI) compounds."

The revisions and additions read as follows:

§ 1915.1000 Air contaminants.

* * * * *

TABLE Z.—SHIPYARDS

Substance	CAS No.[d]	ppm[a] *	mg/m³[b] *	Skin designation
* * * * * * *				
tert-Butyl chromate (as CrO_3); see 1915.1026[n]	1189–85–1			
* * * * * * *				
Chromium (VI) compounds; see 1915.1026[o].				

* * * * *

* The PELs are 8-hour TWAs unless otherwise noted; a (C) designation denotes a ceiling limit. They are to be determined from breathing-zone air samples.

[a] Parts of vapor or gas per million parts of contaminated air by volume at 25 °C and 760 torr.

[b] Milligrams of substance per cubic meter of air. When entry is in this column only, the value is exact; when listed with a ppm entry, it is approximate.

* * * * *

[d] The CAS number is for information only. Enforcement is based on the substance name. For an entry covering more than one metal compound, measured as the metal, the CAS number for the metal is given—not CAS numbers for the individual compounds.

* * * * *

[n] If the exposure limit in § 1915.1026 is stayed or is otherwise not in effect, the exposure limit is a ceiling of 0.1 mg/m³.

[o] If the exposure limit in § 1915.1026 is stayed or is otherwise not in effect, the exposure limit is 0.1 mg/m³ (as CrO_3) as an 8-hour TWA.

PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

■ 5. The authority citation for part 1926 continues to read as follows:

Authority: Section 107, Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333); secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order 12–71 (36 FR 8754), 8–76 (41 FR 25059), 1–90 (55 FR 9033),), or 6–96 (62 FR 111), as applicable; 29 CFR part 1911.

■ 6. Section 1926.55 is corrected in Appendix A by revising the entry for "tert-Butyl chromate (as CrO_3)", removing the entry for "Chromic acid and chromates (as CrO_3)", and adding an entry for "Chromium (VI) compounds."

The revisions and additions read as follows:

§ 1926.55 Gases, vapors, fumes, dusts, and mists.

* * * * *

Appendix A to § 1926.55—1970 American Conference of Governmental Industrial Hygienists' Threshold Limit Values of Airborne Contaminants

THRESHOLD LIMIT VALUES OF AIRBORNE CONTAMINANTS FOR CONSTRUCTION

Substance	CAS No. [d]	ppm [a]	mg/m³ [b]	Skin designation
* * * *	*	*	*	*
tert-Butyl chromate (as CrO_3); see 1926.1126 [n]	1189–85–1			
* * * *	*	*	*	*
Chromium (VI) compounds; See 1926.1126 [o].				
* * * *	*	*	*	*

* * * * *

[3] Use Asbestos Limit § 1926.58.

* * * * *

[a] Parts of vapor or gas per million parts of contaminated air by volume at 25 °C and 760 torr.

[b] Milligrams of substance per cubic meter of air. When entry is in this column only, the value is exact; when listed with a ppm entry, it is approximate.

* * * * *

[d] The CAS number is for information only. Enforcement is based on the substance name. For an entry covering more than one metal compound, measured as the metal, the CAS number for the metal is given—not CAS numbers for the individual compounds.

* * * * *

[n] If the exposure limit in § 1926.1126 is stayed or is otherwise not in effect, the exposure limit is a ceiling of 0.1 mg/m³.

[o] If the exposure limit in § 1926.1126 is stayed or is otherwise not in effect, the exposure limit is 0.1 mg/m³ (as CrO_3) as an 8-hour TWA.

Signed at Washington, DC, this 15th day of June, 2006.

Edwin G. Foulke, Jr.,

Assistant Secretary of Labor.

[FR Doc. 06–5590 Filed 6–22–06; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD07–06–073]

RIN 1625–AA09

Drawbridge Operation Regulations; Pinellas Bayway Structure "E" (SR 679) Bridge, Gulf Intracoastal Waterway, Mile 113, St. Petersburg Beach, Pinellas County, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the regulations governing the operation of the Pinellas Bayway Structure "E" (SR 679) Bridge, Gulf Intracoastal Waterway mile 113, St. Petersburg Beach, Pinellas County, Florida. This rule is needed to provide vehicular traffic relief during heavy vehicular traffic periods flowing into a nearby county park, as well as meeting the reasonable needs of mariners. This bridge will open on the hour and half hour, Friday, 2 p.m. until 6 p.m., Saturday, Sunday and Federal holidays from 9 a.m. until 7 p.m. until October 29, 2006.

DATES: This rule is effective from June 23, 2006 until 7 p.m. on October 29, 2006.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD07–06–073 and are available for inspection or copying at Commander (dpb), Seventh Coast Guard District, 909 S.E. 1st Avenue, Room 432, Miami, FL 33131, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Project Officer, Seventh Coast Guard District, Bridge Branch, at (305) 415–6743.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NRPM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Publishing an NPRM was impracticable and contrary to the public interest, because the rule is needed to provide for vehicular traffic relief and provides provisions for vessels to transit through the area twice per hour.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after **Federal Register** publication. This rule provides for scheduled bridge openings for vessels to transit through the bridge.

Background and Purpose

The Pinellas Bayway "E" (SR 679) Bridge, Gulf Intracoastal Waterway mile 113, St. Petersburg Beach, Pinellas County, Florida, currently opens on signal; except that, from 9 a.m. to 7 p.m. the draw need only open on the hour, 20 minutes after the hour, and 40 minutes after the hour. The bridge provides vehicular access into and out of a popular county park.

Florida State Representative Rice's office, on behalf of the local citizens, requested the Coast Guard change the current operation of the bridge to two openings per hour during certain periods. The bridge will be required to only open on the hour and half-hour Fridays from 2 p.m. until 6 p.m. and Saturdays, Sundays and Federal holidays from 9 a.m. until 7 p.m. Public vessels of the United States, tugs with tows and vessels in distress shall be passed as necessary.

Discussion of Rule

The regulation was requested by Florida Representative Rice's office on behalf of the residents of St. Petersburg Beach and will provide temporary relief for vehicular traffic during periods of heavy traffic traveling into and out of a nearby county park, while continuing to provide for the reasonable needs of navigation. The bridge will be required to only open on the hour and half-hour on Fridays from 2 p.m. until 6 p.m. and on Saturdays, Sundays and Federal holidays from 10 a.m. until 7 p.m. The draw shall open as necessary for the passage of tugs with tows, public vessels of the United States and vessels in distress.

Regulatory Evaluation

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

Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary, because the rule will allow for timed bridge openings.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities, because the regulations provide for bridge openings, and the reasonable needs of navigation.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If this rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in **FOR FURTHER INFORMATION CONTACT.**

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

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

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

■ 2. From 2 p.m. on June 23, 2006, through 7 p.m. on October 29, 2006, in § 117.287, paragraph (d)(4) is suspended and paragraph (d)(3) is added to read as follows:

§ 117.287 Gulf Intracoastal Waterway.

* * * * *

(d) * * *

(3) The draw of the Pinellas Bayway Structure "E" (SR 679) bridge, mile 113 at St. Petersburg Beach shall open on signal; except that on Fridays from 2 p.m. to 6 p.m., and on Saturday, Sunday and Federal holidays from 9 a.m. to 7 p.m., the draw need only open on the hour and half-hour. Public vessels of the United States, tugs with tows and vessels in distress shall be passed as necessary.

* * * * *

Dated: June 12, 2006.

D.W. Kunkel,

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

[FR Doc. E6–9668 Filed 6–22–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–06–031]

RIN 1625–AA00

Safety Zone; St. Louis River/Duluth/Interlake Tar Remediation Site, Duluth, MN

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the St. Louis River in Duluth, Minnesota. The purpose of the safety zone is to protect the boating public from dangers associated with the cleanup operation in and around Stryker Bay. Entry into this zone is prohibited unless authorized by the Captain of the Port or his duly appointed representative.

DATES: This rule is effective from 8 a.m. CST on May 31, 2006 until 8 p.m. CST on November 30, 2006.

ADDRESSES: Comments and material received from the public are part of the docket [CGD09–06–031] and are available for inspection or copying at U.S. Coast Guard Marine Safety Unit Duluth, 600 South Lake Ave, Canal Park, Duluth, Minnesota 55802 between the hours of 7:30 a.m. and 3:30 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: LT Scott Stoermer, U.S. Coast Guard Marine Safety Unit Duluth, at (218) 720–5286.

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. The permit application was not submitted in time to allow for publication of an NPRM followed by a temporary final rule. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days from the date of publication. Any delay of the effective date of this rule would be contrary to the public interest by exposing the public to the known dangers such as those associated with heavy equipment operations and naphthalene exposure from disturbed sediments.

Background and Purpose

This safety zone is necessary to ensure the safety of the public and boating traffic in the Stryker Bay area during the course of an environmental remediation project. This safety zone is intended to restrict vessel traffic from the portion of St. Louis River where construction and dredging are occurring. The size of the zone was determined by placing the boundaries approximately 50 feet beyond the outermost extent of dredging operations, encompassing all of Stryker Bay and Hallett Slips 6&7.

Discussion of Rule

A temporary safety zone is necessary to ensure the safety of boaters transiting this portion of the St. Louis River. The safety zone will be in effect from 8:00 a.m. CST, May 31, 2006 until 8 p.m. CST, November 31, 2006.

The safety zone will encompass all waters of Stryker Bay and Hallett Slips 6 & 7 which are located north of a boundary line delineated by the following points: From the shoreline at 46°43′10.00″ N, 092°10′31.66″ W, then south to 46°43′06.24″ N, 092°10′31.66″ W, then east to 46°43′06.24″ N, 092°09′41.76″ W, then north to the shoreline at 46°43′10.04″ N, 092°09′41.76″ W. These coordinates are based upon North American Datum 1983 [Datum NAD 83].

All persons and vessels shall comply with the instructions of the Captain of the Port Duluth or the designated on-scene representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Duluth or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted at Coast Guard Marine Safety Unit Duluth at (218) 720–5286.

Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This determination is based on the absence of any commercial vessel traffic in this portion of the St. Louis River. There are currently no operational marine terminals west of Hallett Slip 7, which is part of the remediation.

Small Entities

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

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

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the St. Louis River in the above described zone during the effective period.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: Hallett Slips 6&7 are industrial properties not generally used by the public, and Stryker Bay already has posted warnings against use of those waters. Vessel traffic may enter or transit through the safety zone with the permission of the Captain of the Port Duluth or his designated on-scene representative. Before the effective period, we will issue maritime advisories and ensure they are widely available to users of the St. Louis River.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This event establishes a safety zone therefore paragraph (34)(g) of the Instruction applies.

A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–031 to read as follows:

§ 165.T09–031 Safety Zone; St. Louis River, Duluth/Interlake Tar Remediation Site, Duluth, MN.

(a) *Location.* The following area is a safety zone: All waters of Stryker Bay and Hallett Slips 6 & 7 which are located north of a boundary line delineated by the following points:

From the shoreline at 46°43′10.00″ N, 092°10′31.66″ W, then south to 46°43′06.24″ N, 092°10′31.66″ W, then east to 46°43′06.24″ N, 092°09′41.76″ W, then north to the shoreline at 46°43′10.04″ N, 092°09′41.76″ W. [Datum NAD 83].

(b) *Effective period.* This rule is effective from 8 a.m. CST on May 31, 2006 until 8 p.m. CST on November 30, 2006.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Duluth, or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Duluth or his designated on-scene representative.

(3) The "designated on-scene representative" of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf. The designated on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his designated on-scene representative may be contacted by calling Coast Guard Marine Safety Unit Duluth at (218) 720–5286.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Duluth to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone shall comply with all directions given to them by the Captain of the Port Duluth or his designated on-scene representative.

Dated: May 25, 2006.

G.T. Croot,

Commander, U.S. Coast Guard, Captain of the Port Duluth.

[FR Doc. E6–9662 Filed 6–22–06; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants for Source Categories

CFR Correction

In Title 40 of the Code of Federal Regulations, Part 63 (§§ 63.6580 to 63.8830), revised as of July 1, 2005, on page 309, in § 63.8395 paragraph (b), and on page 332, in § 63.8545 paragraph (b), remove "May 16, 2003" and add in its place "May 16, 2006".

[FR Doc. 06–55523 Filed 6–22–06; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0510; FRL–8073–9]

Spinosad; Pesticide Tolerance Technical Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical correction.

SUMMARY: EPA issued a final rule in the **Federal Register** of March 8, 2006 (FRL–7758–2) concerning the establishment of tolerances for residues of spinosad in or on various commodities. This document is being issued to correct a typographical omission.

DATES: This final rule is effective June 23, 2006.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0510. All documents in the docket are listed on the regulations.gov web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

The Agency included in the final rule a list of those who may be potentially affected by this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under the **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Access Electronic Copies of this Document and Other Related Information?

In addition to using regulations.gov, you may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr.*

II. What Does this Correction Do?

FR Doc. 06–1939 published in the **Federal Register** of March 8, 2006 (71 FR 11519) (FRL–7758–2) is corrected as follows:

On page 11526, in the amendment to §180.495 (a), the table establishing tolerances appeared as a two column table. The table should have appeared as a three column table. The omitted third column should include the heading "Expiration/Revocation Date", and the entry "None" to correspond to the tolerance listed in each row. This document is being published to correct that omission.

III. Why is this Correction Issued as a Final Rule?

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the Agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's technical correction final without prior proposal and opportunity for comment, because because the use of notice and comment procedures are unnecessary to effectuate this correction. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

IV. Do Any of the Statutory and Executive Order Reviews Apply to this Action?

No. This action only corrects typographically omissions for a previously published final rule and does not impose any new requirements. EPA's compliance with the statutes and Executive Orders for the underlying rule

is discussed in Unit VII. of the March 8, 2006, final rule (71 FR 11519).

V. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: June 14, 2006.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR part 180 is corrected as follows:

PART 180—[AMENDED]

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

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

■ 2. As published in the **Federal Register** of March 8, 2006, on page 11526, second column, the amendatory instruction 2.i. to § 180.495, is corrected to read as follows:

■ 2. Section 180.495 is amended:

i. In paragragh (a), in the table, by removing: Corn, forage at 1.0 ppm; corn, hay at 1.0 ppm; corn stover at 1.0 ppm; corn straw at 1.0 ppm; grass, forage, fodder and hay, group 17 at 0.02 ppm; sorghum, forage at 1.0 ppm; sorghum, forage, hay at 1.0 ppm; sorghum, grain, stover at 1.0 ppm; sorghum, straw at 1.0 ppm; wheat, forage at 1.0 ppm; wheat, hay at 1.0 ppm and wheat, straw at 1.0 ppm; and by alphabetically adding the commodities as set forth below.

§ 180.495 Spinosad; tolerances for residues.

(a) * * *

Commodity	Parts per million	Expiration/ Revocation Date
* * * * * *		*
Alfalfa, seed	0.15	None
Alfalfa, seed screenings	2.0	None
Animal feed, nongrass, group, 18, forage	35.0	None
Animal feed, nongrass, group, 18, hay	30.0	None
* * * * * *		*
Banana	0.25	None
Food commodities	0.02	None
Grain, cereal, group 16, forage, except rice	2.5	None
Grain, cereal, group 16, hay, except rice	10.0	None
Grain, cereal, group, 16, stover, except rice	10.0	None
Grain, cereal, group, 16, straw, except rice	1.0	None
* * * * * *		*
Grass, forage, fodder and hay, group 17, forage	10.0	None
Grass, forage, fodder and hay, group 17, hay	5.0	None
* * * * * *		*
Onion, green	2.0	None
* * * * * *		*
Peanut, hay	11.0	None
Peppermint, tops	3.5	None
* * * * * *		*
Spearmint, tops	3.5	None
* * * * * *		*
Vegetable, bulb, group 3, except green onion	0.10	None.
* * * * * *		*

* * * * *

[FR Doc. 06–5629 Filed 6–22–06; 8:45 am]
BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–8186–5]

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

AGENCY: Environmental Protection Agency.

ACTION: Direct final notice of deletion of the Brio Refining, Inc. Superfund Site from the National Priorities List.

SUMMARY: The United States Environmental Protection Agency (EPA) Region 6 is publishing a direct final notice of deletion of the Brio Refining, Inc. Superfund Site (Site), located in Friendswood, Texas, from the National Priorities List (NPL). The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B of 40 CFR Part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final notice of deletion is being published by EPA with the concurrence of the State of Texas, through the Texas Commission on Environmental Quality (TCEQ), because EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not appropriate.

DATES: This direct final notice of deletion will be effective August 22, 2006 unless EPA receives adverse comments by July 24, 2006. If adverse comments are received, EPA will publish a timely withdrawal of the

direct final notice of deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–1989–0008, by one of the following methods:

http://www.regulations.gov: Follow the on-line instruction for submitting comments.

E-mail: mail to *walters.donn@epa.gov.*

Fax: 214–665–6660.

Mail: Donn Walters, Community Outreach Team, U.S. EPA Region 6 (6SF–PO), 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–6483 or 1–800–533–3508.

Instructions: Direct your comments to Docket ID No. EPA–HQ–SFUND–1989–0008. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *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 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 be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the information repositories.

Information Repositories: Comprehensive information about the Site is available for viewing and copying during central standard time at the Site information repositories located at: U.S. EPA Region 6 Library, 7th Floor, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733, (214) 665–6424, Monday through Friday 9 a.m. to 12 p.m. and 1 p.m. to 4 p.m.; San Jacinto College, South Campus Library, 13735 Beamer Road, Houston, Texas, 77089, (281) 992–3416, Monday through Thursday 8 a.m. to 9 p.m.; Friday 8 a.m. to 3 p.m.; Saturday 10 a.m. to 1 p.m.; Texas Commission on Environmental Quality (TCEQ), Central File Room Customer Service Center, Building E, 12100 Park 35 Circle, Austin, Texas, 78753, (512) 239–2900, Monday through Friday 8 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: John C. Meyer, Remedial Project Manager (RPM), U.S. EPA Region 6 (6SF–LP), 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–6742 or 1–800–533–3508 (*meyer.john@epa.gov*).

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The EPA Region 6 office is publishing this direct final notice of deletion of the Brio Refining, Inc. Superfund Site from the NPL.

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

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective August 22, 2006 unless EPA receives adverse comments by July 24, 2006 on this document. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion and the deletion will not take effect. The EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Brio Refining, Inc., Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

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

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

ii. All appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) responses under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or,

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

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

III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) The EPA consulted with TCEQ on the deletion of the Site from the NPL prior to developing this direct final notice of deletion.

(2) TCEQ concurred with deletion of the Site from the NPL.

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

(4) The EPA placed copies of documents supporting the deletion in the Site information repositories identified above.

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

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

IV. Basis for Site Deletion

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

Site Location

The Brio Site is located almost 20 miles south of Houston, Texas, and occupies approximately 58 acres. The site is divided by Dixie Farm Road, with Brio North being historically used for storage purposes and Brio South being primarily used for processing activities. A neighboring residential subdivision (Southbend, now abandoned) is located along and north of the northern boundary of Brio North. Mud Gully, a flood control ditch and local tributary of Clear Creek, runs along the western boundary of the Site.

Site History

Processing activities began at the Site in the early 1950's and consisted of reclamation of petrochemicals from various source materials, most of which were residues, tank bottoms, and tars of other processes performed at off-site locations. Most of the feedback materials for processing at Brio were stored in on-site pits, many of which were located on Brio North. All of the pits were closed during site operations, which ceased in December 1982.

Remedial Investigation and Feasibility Study (RI/FS)

In 1985, EPA entered into an Administrative Order on Consent with the Brio Site Task Force (BSTF) to perform the RI/FS. The investigation focused on five predominant media: Soils in and around the closed impoundments, groundwater, above ground tanks, the waste water treatment system, and sewage sludge.

The investigations found that the majority of the contamination at the site is found within the location of the former storage pit areas. The pits were constructed within the uppermost geologic units designated the Upper Clay. This unit occurs across the entire site and ranges in depth from 14 to 32 feet. The RI/FS estimated the volume of contaminated soils associated with the former pits at approximately 200,000 cubic yards.

The three primary affected media at the site include ground water, surface soils, and subsurface soils. The principal contaminants of concern at the site are organic compounds and chlorinated solvent compounds. The contaminants include the following: 1,1,2-trichloroethane; 1,2-dichloroethane; 1,2-dichloroethene; 1,1-dichloroethene; 1,1-dichloroethane; vinyl chloride; bis-(2-chloroethyl) ether; and phenanthrene.

The risk assessment concluded that the site potentially poses four major risks to human health and the environment: Ingestion of on-site soils, direct contact with on-site soils, inhalation of dust from the site, and ingestion of shallow ground water from the site.

Record of Decision

Following the site investigations, EPA issued a Record of Decision (ROD) on March 31, 1988, that selected on-site incineration of pit residuals, removal of surface contamination, channel improvements to Mud Gully, demobilization of remaining process equipment and removal of debris on the site, removal of dense non-aqueous phase liquids (DNAPL) and pump and treat for groundwater in the numerous sand channel zone (NSCZ). The ROD addressed all the threats at the site as a single operable unit, including ground water contamination. A consent decree was entered in April 1991 between EPA and the BSTF for implementation of the ROD. A remedial design was performed by the BSTF and approved by EPA in July 1993. Demolition of the majority of the remaining process equipment was completed prior to mobilization of the incinerator.

A rotary kiln incinerator and support equipment were mobilized to the site following the demolition work. Temporary enclosures were erected over the pits requiring remediation in order to contain emissions during excavation. The incinerator began clean burn operations with imported material, and excavation began at Pit R on Brio South for shakedown operations and to stockpile material for the trial burn. Emission problems during excavation led to a "stop work" order until appropriate emission control equipment could be installed. Before additional controls could be installed, the BSTF submitted a force majeure claim which resulted in the decision by EPA to allow the dismantling of the incinerator. The incinerator and support equipment were demobilized by December 1994.

A focused feasibility study was initiated to evaluate alternatives to the incineration remedy selected in 1988. The EPA signed an Amended Record of Decision on July 2, 1997, selecting containment as the preferred alternative. The elements of the containment remedy included a vertical barrier wall, site cover, groundwater flow control and institutional controls.

Response Actions

In June 1989, an Administrative order on Consent was signed with the BSTF, to begin dismantlement of the process equipment on the site. The facility dismantlement was completed in December 1989. Material present in the process equipment and tanks was consolidated into remaining tanks. The process equipment and tanks were decontaminated and sent to an off-site smelter for reclamation.

A consent decree with a scope of work to implement the remainder of the ROD was entered by the Federal district court on April 4, 1991. A remedial design was completed in 1993 that addressed installation and operation of an incinerator to treat contaminated soils, sludges, and liquids above the action levels specified in the ROD.

In May 1993, surface water discharges were found to be occurring in Mud Gully. Characterization of the water and sediments in Mud Gully and Clear Creek found that chlorinated volatile organics were discharging from the Brio site in the area of Pit B in order to

control the discharges of contaminated ground water to Mud Gully.

In December 1993, site preparation work for the mobilization of the incinerator began. This work included removal of the majority of the remaining tanks from the initial dismantling operation. The tanks were cleaned and sent off-site for smelting. A rotary kiln incinerator and support equipment were mobilized to the site following the demolition work. The incinerator was demobilized by December 1994 following EPA's decision to evaluate other alternatives for the Site.

During the time between the demobilization of the incinerator and the implementation of the containment alternative in the Amended ROD, several elements of construction continued. The elements included: Initiation and operation of DNAPL recovery; ground water extraction and treatment to prevent off-site migration to Mud Gully; removal of storage tanks and drums remaining at the site and off-site disposal of the contents; and closure of the waste water treatment system.

Construction of the remedial action pursuant to the Amended ROD began in July 2000 and was implemented in phases. Approximately 5900 lineal feet of slurry wall was constructed around the perimeter of the site from September to December 2000. The slurry wall was constructed by excavating a 30-inch wide trench to a depth that seals the wall into a low-permeable natural clay layer termed "Middle Clay Unit"(MCU). The depth of the slurry wall ranges from approximately 35 to 50 feet. Once the excavation achieved the proper depth, a backfill material (consisting of thoroughly mixed native soils and fresh slurry) was placed in the excavation.

The sheet pile barrier wall was installed from July 2001 to December 2001. The wall is approximately 1,781 feet long and varies in depth from 35 to 50 feet below ground surface. The wall was installed to designed depths into the low-permeable natural clay layer and in conjunction with the slurry wall completed the vertical barrier wall component of the Amended ROD.

The cover system was divided into two major components: Brio North and Brio south. The two areas are divided by Dixie Farm Road and separate borrow pit areas were developed in order to minimize truck traffic over the road. The Brio South cover was initiated first due to its smaller size. The Brio South cover system was constructed from May 2001 to February 2002. An additional compacted clay layer was extended over a segment of the adjacent Dixie Oil Processors (DOP) South site to provide controlled surface water runoff. The Brio North cover system was constructed from December 2001 to September 2003.

The improvements to Mud Gully were done under the jurisdiction of the Harris County Flood Control District and were completed in June 2003. The improvements included realignment of the gully, lining with articulated concrete blocks, and a topsoil cover with vegetation.

A ground water control system was installed that included a water treatment plant, extraction wells, and extensive piping and utilities. The system includes 17 extraction wells to control the hydraulic gradient and 21 monitoring wells to determine compliance with the performance standards.

A pre-certification inspection was conducted by EPA on March 11, 2004, to determine if all the elements of the remedial action met the construction requirements of the Amended ROD and the remedial design. EPA prepared a preliminary closeout report to document the attainment of construction completion and issued the report on April 28, 2004. A final inspection was conducted on April 20, 2006, and EPA found that all elements fo the remedy had been successfully constructed and were operating in accordance with approved plans.

Operation and Maintenance (O&M)

In March 2004, the BSTF submitted a Monitoring, Operation and Maintenance (MO&M) Plan for the site. EPA approved the plan on May 20, 2004. The purpose of the MO&M Plan is to document procedures to be used to assess the long-term success of the site remedy while minimizing adverse natural or man-made impacts on the site. The plan requires (i) operation of the groundwater recovery and treatment system, (ii) operation of the gas collection and recovery system, (iii) monitoring and maintenance of the cover system, and (iv) monitoring of the environmental media (soil, ground water, and air). The plan includes an institutional control plan that provides for deed restrictions on all properties within the site boundary where property owners could be located, and deed notices on properties where the land owner was recalcitrant. The requirements of the institutional control plan have been completed through a Grant of Environmental Deed Restriction and Right of Access, which was recorded August 30, 2005, in the Harris County real property records.

Five-Year Review

Consistent with Section 121(c) of the CERCLA and requirements of the OSWER Directive 9355.7–03B–P ("Comprehensive Five-Year Review Guidance", June 2001), a five-year review is required at this Site. The Directive requires EPA to conduct statutory five-year reviews at sites where, upon attainment of ROD cleanup levels, hazardous substances remaining within restricted areas onsite do not allow unlimited use of the entire site.

Since hazardous substances remain onsite, this Site is subject to five-year reviews to ensure the continued protectiveness of the remedy. Based on the five-year results, EPA will determine whether human health and the environment continue to be adequately protected by the implemented remedy. Five-year reviews were completed on January 8, 1998, and May 13, 2003. The reviews found that the remedy remains protective of human health and the environment.

Community Involvement

Public participation activities have been satisfied as required in CERCLA Section 113(k), 42 U.S.C. 9613(k), and CERCLA Section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion from the NPL are available to the public in the information repositories.

V. Deletion Action

The EPA, with concurrence of the State of Texas, has determined that all appropriate responses under CERCLA have been completed, and that no further response actions, under CERCLA, other than O&M and five-year reviews, are necessary. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective August 22, 2006 unless EPA receives adverse comments by July 24, 2006. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion and it will not take effect. The EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous

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

Dated: May 25, 2006.

Richard E. Greene,

Regional Administrator, Region 6.

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

PART 300—[AMENDED]

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

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

Appendix B—[Amended]

■ 2. Table 1 of Appendix B to Part 300 is amended under Texas ("TX") by removing the entry for "Brio Refining, Inc.".

[FR Doc. 06–5568 Filed 6–22–06; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–8188–7]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Technical correction of final partial deletion of the Motor Wheel Disposal Superfund Site from the National Priorities List.

SUMMARY: On June 22, 2000 "65 FR 38806), EPA published a (Notice of intent to delete 3.45 acres of land from the Motor Wheel Disposal site from the National Priorities List; request for comments", and on June 22, 2000 (65 FR 38774), a "Direct final notice of deletion for 3.45 acres of land for the Motor Wheel Superfund Site from the National Priorities List (NPL)." The EPA is publishing this Technical Correction to the June 22, 2000 final notice of deletion due to errors that were published in that notice and in the National Priorities List at 40 CFR part 300, Appendix B. After review of the final notice of deletion and the National Priorities List, EPA is publishing this Technical Correction today to change the word "removing" in the June 22, 2000 Direct final notice of deletion to the word "revising" and to amend 40 CFR part 300, Appendix B by adding the Motor Wheel, Lansing, Michigan, and inserting a "P" in the Notes(a) column for the Motor Wheel Site, Lansing, Michigan. EPA will place a copy of the final partial deletion package in the site repositories.

DATES: *Effective Date:* This Technical Correction of the direct final action is effective as of June 23, 2006

ADDRESSES: Comprehensive information on the Site, as well as the comments that were received during the comment period are available at: Robert Paulson, Community Involvement Coordinator, U.S. EPA , P19J, 77 W. Jackson, Chicago, IL, (312) 886–0272 or 1–800–621–8431.

FOR FURTHER INFORMATION CONTACT: Gladys Beard, State NPL Deletion Process Manager, U.S. EPA (SR–6J), 77 W. Jackson, Chicago, IL 60604, (312) 886–7253 or 1–800–621–8431.

SUPPLEMENTARY INFORMATION:

Information Repositories: Repositories have been established to provide detailed information concerning this decision at the following address: U.S. EPA Region V Library, 77 W. Jackson, Chicago, IL 60604, (312) 353–5821, Monday through Friday 8 a.m. to 4 p.m.; The Lansing Public Library, Reference Section, 401 Capital Ave., Lansing, MI 48933.

List of Subjects in 40 CFR Part 300

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

Dated: June 15, 2006.

Bharat Mathur,

Acting Regional Administrator, EPA Region V.

■ For the reasons stated in the preamble, 40 CFR part 300 is amended as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

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

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

■ 2. Table 1 of Appendix B to Part 300 is amended under Michigan "MI" by revising the entry for "Motor Wheel" to read as follows:

Appendix B to Part 300—National Priorities List

TABLE 1.—GENERAL SUPERFUND SECTION

State	Sitename	City/county	(Notes)[a]
* * * * * * *			
MI	Motor Wheel	Lansing	P
* * * * * * *			

[a] * * *.

P=Sites with partial deletion(s).

* * * * *

[FR Doc. E6–9950 Filed 6–22–06; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 423

[CMS–0018–IFC]

RIN 0938–A042

Medicare Program; Identification of Backward Compatible Version of Adopted Standard for E-Prescribing and the Medicare Prescription Drug Program (Version 8.1)

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Interim final rule with comment period.

SUMMARY: This interim final rule with comment period identifies the Prescriber/Pharmacist Interface SCRIPT Standard, Implementation Guide, Version 8.1 (hereafter referred to as "Version 8.1 of the National Council for Prescription Drug Programs (NCPDP) SCRIPT Standard") as a backward compatible update of the adopted Version 5.0. This interim final rule with comment period also permits the voluntary use of Version 8.1 of the NCPDP SCRIPT Standard for conducting certain e-prescribing transactions for the electronic prescription drug program under Title I of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA).

DATES: *Effective date:* These regulations are effective on June 23, 2006. The incorporation by reference of the publication listed in these regulations is approved by the Director of the Federal Register as of June 23, 2006.

Comment date: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on August 22, 2006.

ADDRESSES: In commenting, please refer to file code CMS–0018–IFC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (no duplicates, please):

1. *Electronically.* You may submit electronic comments on specific issues in this regulation to *http://www.cms.hhs.gov/eRulemaking.* Click on the link "Submit electronic comments on CMS regulations with an open comment period." (Attachments should be in Microsoft Word, WordPerfect, or Excel; however, we prefer Microsoft Word.)

2. *By regular mail.* You may mail written comments (one original and two copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–0018–IFC, P.O. Box 8015, Baltimore, MD 21244–8015.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments (one original and two copies) to the following address only: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–0018–IFC, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments (one original and two copies) before the close of the comment period to one of the following addresses. If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786–7195 in advance to schedule your arrival with one of our staff members.

Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201; or 7500 Security Boulevard, Baltimore, MD 21244–1850.

(Because access to the interior of the HHH Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Gladys Wheeler, (410) 786–0273. *Gladys.Wheeler@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Submitting Comments: We welcome comments from the public on all issues set forth in this rule to assist us in fully considering issues and developing policies. You can assist us by referencing the file code CMS–0018–IFC and the specific "issue identifier" that precedes the section on which you choose to comment.

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.cms.hhs.gov/eRulemaking.* Click on the link "Electronic Comments on CMS Regulations" on that Web site to view public comments.

Comments received timely will be also available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

I. Background

[If you choose to comment on issues in this section, please include the caption "BACKGROUND" at the beginning of your comments.]

A. Statutory Basis

Section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108–173) amended title XVIII of the Social Security Act (the Act) to establish the Voluntary Prescription Drug Benefit Program. Included in the provisions at section 1860D–4(e) of the Act is the requirement that any prescriptions for covered program (Part D) drugs prescribed for Part D eligible individuals that are transmitted electronically, comply with final standards adopted by the Secretary under an electronic prescription drug program.

The Medicare Prescription Drug Benefit Program final rule, published January 28, 2005 (70 FR 4194), established cost control and quality improvement requirements for prescription drug benefit plans. Among those requirements, prescription drug plan (PDP) sponsors and Medicare Advantage (MA) organizations offering Medicare Advantage-Prescription Drug (MA–PD) plans must have the capacity to support e-prescribing programs in accordance with the final e-prescribing standards established by the Secretary.

The requirement that PDP sponsors and MA organizations offering MA–PD

plans have the capacity to support e-prescribing programs in accordance with final standards established by the Secretary does not require that prescriptions be written or transmitted electronically by physicians or pharmacies. However, physicians, pharmacies, and others in the health care industry that are not required to use the standards at the time they are adopted are encouraged to do so. The MMA directs the Secretary to promulgate regulations, in consultation with the Attorney General, which provide for an anti-kickback statute safe harbor and a Federal physician self-referral prohibition exception for e-prescribing of covered Part D drugs.

For a more detailed discussion of the proposed physician self-referral prohibition exceptions and the proposed anti-kickback statute safe harbors, please refer to our proposed rules, "Medicare Program; Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships; Exceptions for Certain Electronic Prescribing and Electronic Health Records Arrangements" (October 11, 2005, 70 FR 59182); and "Medicare and State Health Care Programs: Fraud and Abuse; Safe Harbor for Certain Electronic Prescribing Arrangements Under the Anti-Kickback Statute"(October 11, 2005, 70 FR 59015).

Section 1860D–4(e) of the Act contains the provisions for e-prescribing programs. The statute specifies when initial standards are to be developed, adopted, recognized or modified (not later than September 1, 2005), and when final standards must be promulgated (not later than April 1, 2008) and then become effective (not later than 1 year after the date of promulgation of the final standards).

The provisions at section 1860D–4(e) of the Act require that electronic transmissions of prescription and certain other information for covered Part D drugs prescribed for Part D eligible individuals, be transmitted in accordance with final standards and that the following requirements be met:

- An electronic prescription drug program will provide for the electronic transmittal by the prescribing health care professional and the dispensing pharmacy and pharmacist of the prescription and information on eligibility and benefits (including the drugs included in the applicable formulary, any tiered formulary structure, and any requirements for prior authorization) and of the following information with respect to the prescribing and dispensing of a covered Part D drug:

  + Information on the drug being prescribed or dispensed and other drugs listed on the medication history, including information on drug-to-drug interactions, warnings or cautions, and, when indicated, dosage adjustments.

  + Information on the availability of lower cost and therapeutically appropriate alternatives (if any) for the drug prescribed.

- Effective on and after a date that the Secretary specifies and after the establishment of appropriate standards, the program will provide for the electronic transmittal of information that relates to the medical history concerning the individual and related to a covered Part D drug being prescribed or dispensed, upon request of the professional or pharmacist involved.

- Information will only be disclosed if the disclosure of this information is permitted under the Federal regulations (concerning the privacy of individually identifiable health information) established under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

- To the extent feasible, the information exchanged will be on an interactive, real-time basis.

The statute also requires the National Committee on Vital and Health Statistics (NCVHS) to develop recommendations for standards, in consultation with a specific group of constituencies. The Secretary will take into consideration NCVHS's recommendation, if any, when developing, adopting, recognizing, or modifying initial uniform standards.

The statute requires pilot testing of the initial standards before publishing the final standards in order to facilitate efficient implementation of the requirements. However, it also permits an exception to the pilot testing requirement for standards where there already is adequate industry experience with these standards, as determined by the Secretary after consultation with affected standard-setting organizations and industry users. Under this exception, standards can be proposed and adopted as standards through rulemaking without pilot testing, and would then become final standards.

B. Provisions of the Final Rule

In the final rule, Medicare Program; E-Prescribing and the Prescription Drug Program," (November 7, 2005, 70 FR 67567), and codified at 42 CFR 423.160(b), we adopted Version 5.0 of the NCPDP SCRIPT standard for the communication of a prescription or prescription-related information between prescribers and dispensers, for the following:

- Get message transaction.
- Status response transaction.
- Error response transaction.
- New prescription transaction.
- Prescription change request transaction.
- Prescription change response transaction.
- Refill prescription request transaction.
- Refill prescription response transaction.
- Verification transaction.
- Password change transaction.
- Cancel prescription request transaction.
- Cancel prescription response transaction.

In the preamble of the November 7, 2005 final rule, we discussed version updating and maintenance of implementation specifications for the adopted standards (70 FR 67579). We stated that when updating a standard, we would look at a variety of factors to consider how an update should occur, including the significance of the corrections or revisions and whether the newer version is backward compatible with the previously adopted version.

As explained in the preamble of the November 7, 2005 final rule, many commenters supported this proposed method of permitting voluntary implementation of later versions of adopted standards that are backward compatible. They also expressed concern that the version updating and maintenance process should not be hindered by extensive rulemaking, particularly when voluntary adoption of newer versions of standards would be precluded. These commenters explained that progress and innovation would be stifled if the voluntary adoption of backward compatible versions were to be prohibited. We agreed with the majority of commenters and intend to identify backward compatible version updates of adopted standards, which the industry may voluntarily implement.

As discussed in section II. below, "backward compatible" means that the newer version of a data transmission standard would retain, at a minimum, the full functionality of the version(s) previously adopted in regulation, and would permit the successful completion of the applicable transaction(s) with entities that continue to use the older version(s).

After a review of Version 8.1 of the NCPDP SCRIPT Standard, and taking into account input from the NCVHS and industry stakeholders, we have determined that Version 8.1 of the NCPDP SCRIPT Standard maintains full functionality of version 5.0, and would permit the successful completion of the

applicable transaction with entities that continue to use 5.0. Therefore, Version 8.1 of the NCPDP SCRIPT Standard is backward compatible with Version 5.0 and we will permit its use to carry out the transactions described above. Furthermore, as explained in section III of this notice ("Waiver of Proposed Rulemaking"), we have found good cause to waive notice and comment rulemaking.

In the November 7, 2005 final rule, we adopted specific versions of the foundation standards. We noted in the preamble of that rule that we anticipate, as appropriate, updating these foundation standards and other adopted standards through the incorporation by reference update process. When updating a standard, we stated that we would look at a variety of factors to consider how the update should occur. If the update or new version of the standard would impose new requirements on the public, we noted that we would initiate notice and comment rulemaking. If, on the other hand, changes to an updated version were not substantive and imposed no new requirements on the public, we stated that the Secretary would consider waiving notice and comment under an Administrative Procedure Act exception to the requirement for notice and comment rulemaking. This, we noted, would mean that compliance with either version for a covered transaction would be viewed as compliance with the transaction standard. However, we intend to permit use of an alternative version of a standard and must make a conforming change to the Code of Federal Regulations which reflects this alternative. Therefore, we are making this change in this interim final rule with comment period. If we anticipate mandating adoption of a new version of a standard or a new standard in the future, we will, through notice and comment rulemaking, provide ample opportunity for public comment.

Based upon numerous testimonies presented to the NCVHS during their 2005 hearings regarding e-prescribing, comments from the NCPDP, and CMS consultation with industry stakeholders that currently are conducting e-prescribing transactions, we concluded that Version 8.1 of the NCPDP SCRIPT Standard retains the full functionality of Version 5.0 and would permit the successful completion of the applicable transactions with entities that continue to use version 5.0, without imposing any new regulatory burdens or costs on participating entities.

II. Provisions of the Interim Final Rule

[If you choose to comment on issues in this section, please include the caption "PROVISIONS" at the beginning of your comments.]

Use of either Version 5.0 or Version 8.1 of the NCPDP SCRIPT Standard for the covered transactions listed below will be permitted under 42 CFR 423.160(b), effective June 23, 2006. Version 8.1 of the NCPDP SCRIPT Standard is an update to Version 5.0, and we have determined that it is backward compatible with the adopted NCPDP SCRIPT Standard Version 5.0. (Although Version 8.1 of the NCPDP SCRIPT Standard has additional e-prescribing functionalities, we are not adopting any of these additional functionalities at this time.) Use of Version 8.1 of the NCPDP SCRIPT Standard for the communication of a prescription or prescription-related information between prescribers and dispensers, for the following functions, constitutes compliance with the adopted e-prescribing standard:

- Get message transaction.
- Status response transaction.
- Error response transaction.
- New prescription transaction.
- Prescription change request transaction.
- Prescription change response transaction.
- Refill prescription request transaction.
- Refill prescription response transaction.
- Verification transaction.
- Password change transaction.
- Cancel prescription request transaction.
- Cancel prescription response transaction.

According to the November 7, 2005 final rule (70 FR 67580), entities that voluntarily adopt later versions of standards that are backward compatible must still accommodate the earlier adopted version without modification. Since both versions of the standard would be compliant, trading partners who wish to conduct standard e-prescribing transactions may voluntarily adopt Version 8.1 of the NCPDP SCRIPT Standard, but must continue to accept the earlier Version 5.0 transactions without alteration until Version 5.0 is officially retired. In this interim final rule with comment period, we will revise § 423.160(b)(1) and (c) to reflect the voluntary use of Version 8.1 of the NCPDP SCRIPT Standard. We seek comment on permitting the voluntary use of the backward compatible Version 8.1 of the NCPDP SCRIPT Standard as satisfying the requirements of the adopted standard Version 5.0. We also seek comment on whether and when to retire Version 5.0.

III. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

IV. Waiver of Proposed Rulemaking and Delay in Effective Date

The adoption of a standard ordinarily requires notice and comment rulemaking and a 30 day delay in effective date. A notice of proposed rulemaking is published in the **Federal Register** to invite public comment on the proposed rule and generally includes a reference to the legal authority under which the rule is proposed, the provisions of the proposed rule and a description of the subjects and issues addressed by the proposed rule. Notice and comment rulemaking procedure can be waived, however, if an agency finds good cause that a notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of a finding and its reasons in the final notice or rule that is issued.

In this case, we find that notice and comment are unnecessary because this interim final rule with comment period imposes no additional or different legal requirements upon entities participating in the e-prescribing program, but merely provides an additional method by which they may carry out the transactions described in regulations.

Moreover, we ordinarily provide a 30-day delay in the effective date of the provisions of a rule in accordance with the Administrative Procedure Act (APA) (5 U.S.C. 553(d), which requires a 30-day delayed effective date, and the Congressional Review Act (5 U.S.C. 801(a)(3), which requires a 30-day delayed effective date for non-major rules. However, we can waive the delay in effective date if the Secretary finds, for good cause, that such delay is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons in the rule issued. (5 U.S.C. 553(d)(3); 5 U.S.C. 808(2)).

As noted above, this interim final rule with comment period imposes no new requirements on the public. It merely serves to permit the voluntary use of the

backward compatible Version 8.1 of the NCPDP SCRIPT Standard in lieu of Version 5.0, recognizing that the use of Version 8.1 constitutes compliance with the adopted standard for the specified e-prescribing transactions. Entities that elect to use Version 8.1 must support and continue to accept NCPDP SCRIPT Standard Version 5.0 transactions.

For all these reasons, we believe that a notice and comment period and 30-day delay in the effective date would be unnecessary and contrary to the public interest. We therefore find good cause for waiving the notice and comment period 30-day delay in the effective date for the voluntary use of the backward compatible Version 8.1 of the NCPDP SCRIPT Standard in lieu of Version 5.0.

V. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

VI. Regulatory Impact Statement

[If you choose to comment on issues in this section, please include the caption "IMPACT" at the beginning of your comments.]

We have examined the impact of this interim final rule with comment period as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and Executive Order 13132.

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). This interim final rule with comment period does not reach the economic threshold and, thus, is not considered a major rule. Therefore, an RIA has, not been prepared.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $6 million to $29 million in any 1 year. Individuals and States are not included in the definition of a small entity. We are not preparing an analysis for the RFA because we have determined that this interim final rule with comment period imposes no new requirements on small entities because use of Version 8.1 of the NCPDP SCRIPT Standard is voluntary and it will not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 for final rules of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because we have determined that this interim final rule with comment period imposes no new requirements on small rural hospitals because use of Version 8.1 of the NCPDP SCRIPT Standard is voluntary and it will not have a significant economic impact on a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. That threshold level is currently approximately $120 million. This notice will have no consequential effect on State, local, or tribal governments or on the private sector because we have determined that this interim final rule with comment period imposes no new requirements on State, local, or tribal governments or on the private sector because the use of Version 8.1 of the NCPDP SCRIPT Standard is voluntary and it will not have a significant economic impact on State, local, or tribal governments or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. Since this interim final rule with comment period does not impose any costs on State or local governments, the requirements of E.O. 13132 are not applicable.

In accordance with the provisions of Executive Order 12866, this interim final rule with comment period was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 423

Administrative practice and procedure, Emergency medical services, Health facilities, Health maintenance organizations, (HMO), Health professions, Incorporation by Reference, Medicare, Penalties, Privacy, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR part 423 as follows:

PART 423—VOLUNTARY MEDICARE PRESCRIPTION DRUG BENEFIT

■ 1. The authority citation for part 423 continues to read as follows:

Authority: Secs 1102, 1860D–1 through 1860D–42, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395w–101 through 1395w-152, and 1395hh).

■ 2. Section 423.160 is amended by revising paragraphs (b)(1) and (c) to read as follows:

§ 423.160 Standards for electronic prescribing.

* * * * *

(b) *Standards.* (1) *Prescription.* The National Council for Prescription Drug Programs SCRIPT Standard, Implementation Guide, Version 5, Release 0, May 12, 2004, or Prescriber/Pharmacist Interface SCRIPT Standard, Implementation Guide, Version 8, Release 1, October 2005, to provide for the communication of a prescription or prescription-related information between prescribers and dispensers, for the following:

(i) Get message transaction.
(ii) Status response transaction.
(iii) Error response transaction.
(iv) New prescription transaction.
(v) Prescription change request transaction.
(vi) Prescription change response transaction.
(vii) Refill prescription request transaction.
(viii) Refill prescription response transaction.
(ix) Verification transaction.
(x) Password change transaction.
(xi) Cancel prescription request transaction.
(xii) Cancel prescription response transaction.

* * * * *

(c) *Incorporation by reference.* The Director of the Federal Register approves, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, the incorporation by reference of the National Council for Prescription Drug Programs SCRIPT Standard, Implementation Guide, Version 5, Release 0, May 12, 2004, excluding the Prescription Fill Status Notification Transaction (and its three business cases; Prescription Fill Status Notification Transaction—Filled, Prescription Fill Status Notification Transaction—Not Filled, and Prescription Fill Status Notification Transaction—Partial Fill), Prescriber/Pharmacist Interface SCRIPT Standard, Implementation Guide, Version 8, Release 1, October 2005, excluding the Prescription Fill Status Notification Transaction (and its three business cases; Prescription Fill Status Notification Transaction—Filled, Prescription Fill Status Notification Transaction—Not Filled, and Prescription Fill Status Notification Transaction—Partial Fill); the Accredited Standards Committee X12N 270/271—Health Care Eligibility Benefit Inquiry and Response, Version 4010, May 2000, 004010X092 and Addenda to Health Care Eligibility Benefit Inquiry and Response, Version 4010, October 2002, Washington Publishing Company, 004010X092A1, and the National Council for Prescription Drug Programs Telecommunication Standard Specification, Version 5, Release 1 (Version 5.1), September 1999, and equivalent NCPDP Batch Standard Batch Implementation Guide, Version 1, Release 1 (Version 1.1), January 2000 supporting Telecommunications Standard Implementation Guide, Version 5, Release 1 (Version 5.1), September 1999, for the NCPDP Data Record in the Detail Data Record. You may inspect copies of these materials at the headquarters of the Centers for Medicare & Medicaid Services (CMS), 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday from 8:30 a.m. to 4 p.m. or at the National Archives and Records Administration (NARA). For information on the availability of this material at CMS, call 410–786–0273. For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.* You may obtain a copy of the National Council for Prescription Drug Programs SCRIPT Standard, Version 5, Release 0, May 12, 2004 or the Prescriber/Pharmacist Interface SCRIPT Standard, Implementation Guide, Version 8, Release 1, October 2005, from the National Council for Prescription Drug Programs, Incorporated, 9240 E. Raintree Drive, Scottsdale, AZ 85260–7518; Telephone (480) 477–1000; and fax (480) 767–1042 or *http://www.ncpdp.org.* You may obtain a copy of the Accredited Standards Committee X12N 270/271—Health Care Eligibility Benefit Inquiry and Response, Version 4010, May 2000, Washington Publishing Company, 004010X092 and Addenda to Health Care Eligibility Benefit Inquiry and Response, Version 4010, 004010X092A1, October 2002, from the Washington Publishing Company,301 West North Bend Way, Suite 107, P.O. Box 15388, North Bend, WA 98045; Telephone (425) 831–4999; and fax (425) 831–3233 or *http://www.wpc-edi.com/.* You may obtain a copy of the National Council for Prescription Drug Programs Telecommunication Standard Guide, Version 5, Release 1 (Version 5.1), September 1999, and equivalent NCPDP Batch Standard Batch Implementation Guide, Version 1, Release 1 (Version 1.1), January 2000 supporting Telecommunications Standard Implementation Guide, Version 5, Release 1 (Version 5.1), September 1999, for the NCPDP Data Record in the Detail Data Record, from the National Council for Prescription Drug Programs, Incorporated, 9240 E. Raintree Drive, Scottsdale, AZ 85260–7518; Telephone (480) 477–1000; and FAX (480) 767–1042 or *http://www.ncpdp.org.*

Authority: Section 1860D–4(e) of the Social Security Act (42 U.S.C. 1395w–104(e))

(Catalog of Federal Domestic Assistance Program No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: March 30, 2006.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

Approved: May 22, 2006.

Michael O. Leavitt,

Secretary.

[FR Doc. E6–9521 Filed 6–22–06; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 223

[Docket No. 060405097–6161–02; I.D. 033006E]

RIN 0648–AU10

Sea Turtle Conservation; Modification to Fishing Activities

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

ACTION: Final rule.

SUMMARY: NMFS is requiring that any offshore pound net leader in the Virginia waters of the mainstem Chesapeake Bay, south of 37°19.0′ N. lat. and west of 76°13.0′ W. long., and all waters south of 37°13.0′ N. lat. to the Chesapeake Bay Bridge Tunnel at the mouth of the Chesapeake Bay, and the James and York Rivers downstream of the first bridge in each tributary, during the period of May 6 through July 15, meet the definition of a modified pound net leader. Without this final rule, existing regulations would continue to prohibit all offshore pound net leaders in that area during that time frame. An offshore pound net leader refers to a leader with the inland end set greater than 10 horizontal feet (3 m) from the mean low water line. While restrictions promulgated in 2004 on pound net leaders in the Virginia waters of the Chesapeake Bay outside the aforementioned area remain in effect, this final rule creates an exception to those restrictions by allowing the use of modified pound net leaders in this area. This action, taken under the Endangered Species Act of 1973 (ESA), responds to new information generated by gear research. It is intended to conserve sea turtles listed as threatened under the ESA and to help enforce the provisions of the ESA, including the provisions against takes of endangered species, while enabling fishermen to use leaders, an important component of pound net gear, during the regulated period.

DATES: Effective June 23, 2006.

FOR FURTHER INFORMATION CONTACT: Pasquale Scida (ph. 978–281–9208, fax 978–281–9394), or Therese Conant (ph. 301–713–2322, fax 301–427–2522).

SUPPLEMENTARY INFORMATION:

Background

NMFS issued a final rule on May 5, 2004 (69 FR 24997), which prohibited the use of offshore pound net leaders in

a portion of the Virginia Chesapeake Bay, which is renamed in this final rule "Pound Net Regulated Area I", from May 6 through July 15 each year. An offshore pound net leader refers to a leader with the inland end set greater than 10 horizontal feet (3 m) from the mean low water line. The 2004 rule also prohibited the use of 12 inches (30.5 cm) and greater stretched mesh and stringers in nearshore pound net leaders in Pound Net Regulated Area I and all pound net leaders employed in the remainder of the Virginia Chesapeake Bay, which is renamed in this final rule "Pound Net Regulated Area II", from May 6 through July 15. The 2004 rule contained other provisions that are not relevant to this action. For complete details and justification for the 2004 rule, see 69 FR 24997.

In 2004 and 2005, NMFS implemented a coordinated research program with pound net industry participants and other interested parties to develop and test a modified pound net leader design with the goal of eliminating or reducing sea turtle interactions while retaining an acceptable level of fish catch. The modified pound net leader design used in the experiment consisted of a combination of mesh and stiff vertical lines. The mesh size was equal to or less than 8 inches (20.3 cm) and positioned at a depth that was no more than one-third the depth of the water. The vertical lines were 5/16 inch (0.8 cm) in diameter strung vertically at a minimum of every 2 feet (61 cm) and attached to a top line. The vertical lines rose from the top of the mesh up to a top line to which they were attached. In 2005, hard lay line was used for the vertical lines in order to make them more stiff. The hard lay lines used in 2005 were made of 5/16 inch (0.8 cm) sinking line, and were polyester-wrapped around Polysteel, which is a blend of polypropylene and polyethylene.

During the 2-year study, the modified leader was found effective in reducing sea turtle interactions as compared to the unmodified leader. The final results of the 2004 study found that out of eight turtles impinged on or entangled in pound net leaders, seven were in an unmodified leader. One leatherback turtle was found entangled in the vertical lines of a modified leader. In response to the leatherback entanglement, the gear was further modified by increasing the stiffness of the vertical lines for the 2005 experiment. In 2005, 15 turtles entangled in or impinged on the leaders of unmodified leaders, and no turtles were found entangled in or impinged on modified leaders. Furthermore, results of the finfish catch comparison suggest that the modified leader caught similar quantities and size compositions as the unmodified leader. Although, in 2005 the portion of the experiment with both modified and unmodified leaders was of shorter duration than the portion of the experiment with modified leaders, NMFS believes that the results provide sufficient new information and justification to require the use of the modified leader in certain areas. Specifically, the experiment supports requiring modified leaders in a part of the Virginia Chesapeake Bay where pound net leaders pose a greater risk to sea turtles while allowing their use in an area of the Virginia Chesapeake Bay where pound net leaders seem to pose less risk.

This action provides for the conservation of threatened sea turtles and helps enforce the provisions of the ESA, including the prohibition on takes of endangered species, by reducing incidental take in the Virginia pound net fishery during the spring, while enabling fishermen to use leaders during the regulated period. Additional details concerning sea turtle and pound net interactions, the potential impact of pound net leaders on sea turtles, the modified pound net leader experiment, and justification for pound net leader regulations may be found in the preamble to the 2004 proposed rule (69 FR 5810, February 6, 2004) and the 2006 proposed rule (71 FR 19675, April 17, 2006).

Approved Measures

NMFS changes the titles of the regulated areas defined in the 2004 rule, while retaining the previously established boundaries.

Pound Net Regulated Area I means Virginia waters of the mainstem Chesapeake Bay, south of 37°19.0′ N. lat. and west of 76°13.0′ W. long., and all waters south of 37°13.0′ N. lat. to the Chesapeake Bay Bridge Tunnel (extending from approximately 37°05′ N. lat., 75°59′ W. long. to 36°55′ N. lat., 76°08′ W. long.) at the mouth of the Chesapeake Bay, and the portion of the James River downstream of the Hampton Roads Bridge Tunnel (I–64; approximately 36°59.55′ N. lat., 76°18.64′ W. long.) and the York River downstream of the Coleman Memorial Bridge (Route 17; approximately 37°14.55′ N. lat, 76°30.40′ W. long.).

Pound Net Regulated Area II means Virginia waters of the Chesapeake Bay outside of Regulated Area I defined above, extending to the Maryland-Virginia State line (approximately 37°55′ N. lat., 75°55′ W. long.), the Great Wicomico River downstream of the Jessie Dupont Memorial Highway Bridge (Route 200; approximately 37°50.84′ N. lat, 76°22.09′ W. long.), the Rappahannock River downstream of the Robert Opie Norris Jr. Bridge (Route 3; approximately 37°37.44′ N. lat, 76°25.40′ W. long.), and the Piankatank River downstream of the Route 3 Bridge (approximately 37°30.62′ N. lat, 76°25.19′ W. long.) to the COLREGS line at the mouth of the Chesapeake Bay.

NMFS requires that from 12:01 a.m. local time on May 6 through 11:59 p.m. local time on July 15 each year, any offshore pound net leader set in Pound Net Regulated Area I meets the definition of a modified pound net leader. Offshore pound nets are defined as those nets set with the inland end of the leader greater than 10 horizontal feet (3 m) from the mean low water line. A modified pound net leader is defined as a pound net leader that is affixed to or resting on the sea floor and made of a lower portion of mesh and an upper portion of only vertical lines such that—(a) the mesh size is equal to or less than 8 inches (20.3 cm) stretched mesh; (b) at any particular point along the leader the height of the mesh from the seafloor to the top of the mesh must be no more than one-third the depth of the water at mean lower low water directly above that particular point; (c) the mesh is held in place by vertical lines that extend from the top of the mesh up to a top line, which is a line that forms the uppermost part of the pound net leader; (d) the vertical lines are equal to or greater than 5/16 inch (0.8 cm) in diameter and strung vertically at a minimum of every 2 feet (61 cm); and (e) the vertical lines are hard lay lines with a level of stiffness equivalent to the stiffness of a 5/16 inch (0.8 cm) diameter line composed of polyester wrapped around a blend of polypropylene and polyethylene and containing approximately 42 visible twists of strands per foot of line.

Due to the variations in manufacturing hard lay line in the cordage industry, NMFS cannot provide a specific definition of hard lay line at this time. Hard lay is a technical term used by the cordage industry to describe line that is purposefully made to be stiff. Hard lay line is made stiff by twisting the line material. Similar materials may be used in soft lay line, but the tightness of the twists provides the rigidity. These twists are added during three processes in the construction of the line. They are added to the fibers, which are twisted into yarns; to the yarns, which are twisted into strands; and to strands, which are twisted into line. NMFS acknowledges that there may be some variation in what is characterized as

hard lay lines, depending on how the manufacturer makes the line, but the characteristics of hard lay line in the water should be similar. The lines used in the 2005 experiment met the characteristics of hard lay lines. The vertical hard lay lines used in the experiment were made of polyester wrapped around Polysteel, which is a blend of polypropylene and polyethylene, and were coated with copper paint to prevent fouling, which also added a small amount of stiffness to the lines. The diameter of the lines was 5/16 inch (0.8 cm) and contained approximately 42 twists of the strands per foot of line. As explained above, twists can be added to fibers, yarns, and strands during the manufacturing process, so a different number of twists at different stages in the process may achieve an equivalent stiffness to the 42 twists of the strands per foot of line used in the 2005 experiment. The vertical lines used in the 2005 experiment were not easily bent and remained stiff in the water regardless of the submergence duration. It is important that the hard lay lines used in the modified leaders perform the same way as those used in the 2005 experiment, in order to reduce the risk of sea turtle entanglement in pound net leaders. Fishermen are afforded the flexibility to use other types of hard lay line as long as it performs the same way as the line in the 2005 experiment and is inflexible and remains stiff regardless of soak time.

Existing mesh size and stringer restrictions on nearshore pound net leaders in Pound Net Regulated Area I and all pound net leaders in Pound Net Regulated Area II remain in place for the period from 12:01 a.m. local time on May 6 through 11:59 p.m. on July 15 each year. However, this rule creates an exception to those restrictions by allowing the use of modified pound net leaders during that period in nearshore pound net leaders in Pound Net Regulated Area I and all pound net leaders in Pound Net Regulated Area II. The year-round reporting and monitoring requirements for this fishery and the framework mechanism under the existing regulations also remain in effect.

Comments and Responses

On April 17, 2006, NMFS published a proposed rule (71 FR 19675) that would require that all offshore pound net leaders set in Pound Net Regulated Area I use a modified pound net leader. Comments on this proposed action were requested through May 2, 2006. Eight comment letters from seven different individuals or organizations were received during the public comment period for the proposed rule. Six comment letters supported the action, while no letters opposed the modified leader requirement. Two comment letters were neither in favor nor against the proposed action. A public hearing was also held in Virginia Beach, Virginia on April 26, 2006, at which five individuals provided oral comments. None of the oral comments were in opposition to the proposed action. NMFS considered these comments on the proposed rule as part of its decision making process. A complete summary of the comments and NMFS' responses, grouped according to general subject matter in no particular order, is provided here.

General Comments

Comment 1: One commenter stated that NMFS does not recognize the impact of strong tidal currents on the risk of sea turtle impingements in pound net leaders set Pound Net Regulated Area I and in nearshore pound net leaders. The commenter recommended that the importance of water current be addressed by refining the definition of "nearshore" and "offshore" pound nets to "shoal water" and "deep water" pound nets, respectively. The commenter suggested that the effect of water depth on current strength is what drives the risk of sea turtle impingements, not just distance from shore, and recommended that the following text be added to the definition of a nearshore pound net: "or the pound net trap head be located in a low water depth of 18 feet or less."

Response: NMFS has monitored pound nets since 2002 and observed sea turtles impinged on nets with varying current strengths. NMFS has found that there are differences between nearshore and offshore nets with respect to the risk to turtles based upon the location of observed impingements and entanglements. However, NMFS recognizes distance from shore is not the only factor that is associated with the risk of sea turtle impingements. In the environmental assessment (EA) prepared for this action, NMFS acknowledges that pound net location is used as a proxy for environmental factors, including current, water depth, temperature, tides, and sea turtle migration patterns, that may also influence the risk of sea turtle interactions with pound net leaders. Generally, areas close to shore are often shallower and have less current than those areas farther from shore, but exceptions may occur because environmental conditions vary locally. Recognizing that geographic location, which may be a proxy for other environmental factors, plays an important role in the risk of sea turtle entanglement in and impingement on pound net leaders, NMFS does not believe that sufficient evidence is available at this time to redefine nearshore and offshore nets based upon only depth characteristics as a proxy for current strength, generally, or upon a pound net trap head depth of 18 feet, specifically. Distance from the mean low water line was used as a common characteristic of those nets considered nearshore, and, therefore, less of a threat of sea turtle entanglement and impingement. The geographic area of the required leader modification in offshore nets in Pound Net Regulated Area I is designed not only to encompass the total area with the most documented takes of sea turtles to prevent turtle entanglements and impingements in pound net leaders, but also to reflect the area in which entanglements and impingements are expected to occur even if a sea turtle interaction has not been observed at particular pound net sites.

Comment 2: One commenter reminded NMFS that the framework provision in the regulations remains intact and that he has challenged this provision in court.

Response: NMFS is aware that the commenter is currently challenging the July 2003 application of the framework provision that was part of the 2002 final rule. The existing framework provision, which was established by the 2004 pound net rule, has not been challenged. This rule does not affect the existing framework provision. NMFS has responded to the commenter's argument in the context of the litigation and awaits the court's decision.

Comment 3: One commenter noted that the cause and effect of sea turtle impingements on pound net leaders remain largely unknown, and that sea turtle impingements may occur in other fishing gear.

Response: Impingement on a pound net leader refers to a sea turtle being held against the leader by the current, apparently unable to release itself under its own ability. It is possible that a sea turtle in a weakened state may become impinged on a leader by a slower current than that which may impinge a strong, healthy sea turtle. While NMFS does not have data that identifies how strong a current must be to impinge a turtle of a given condition, NMFS does know that currents lead to impingements of sea turtles against pound net leaders. For instance, since 2002, 18 sea turtles (including 2 dead) have been found impinged on pound

net leaders with varying current strength.

NMFS believes an impingement may compromise a sea turtle and result in mortality. Based on the observations of impinged sea turtles on pound net leaders during NMFS monitoring efforts and the modified leader experiment, if an animal was impinged on a leader by the current with its flippers inactive, NMFS believes that without any human intervention the turtle could either swim away alive when slack tide occurred, become entangled in the leader mesh when trying to free itself, or drift away dead if it drowned prior to slack tide. In 2002 and 2003, six observed live impingements occurred near the surface, but seven turtles were found underwater, unable to reach the surface to breathe. Based on information on forcibly submerged sea turtles, it is likely that if a turtle could not breathe from the position where it was impinged on the net, it would have a low likelihood of survival if it remained on the net for longer than approximately one hour, even if it were a healthy turtle before becoming impinged (Henwood and Stuntz, 1987; Lutcavage and Lutz, 1997).

If fishing gear of any kind is fixed in the water column and a sea turtle comes in contact with the gear, has one or both of its flippers pinned against the net, and is unable to swim parallel to or off the gear, it is possible that a sea turtle may become impinged on the fishing gear. Impingement may occur on other types of fishing gear besides pound net leaders. However, NMFS has no data, observations, or anecdotal reports in other fisheries to suggest this occurs. Even if NMFS had information indicating that sea turtles become impinged on other types of gears, NMFS has the authority to regulate pound net gear as one source of impingement.

Comments in Support of Alternatives Other Than the Proposed Alternative

Comment 4: Two commenters supported Non-Preferred Alternative 2 (NPA 2; *e.g.*, required use of the modified leaders in both Pound Net Regulated Areas I and II) because if a pound net leader is located in an area where the risk of take exists, it seems reasonable to conclude that the modified leader design would reduce the takes, regardless of the location of the pound net leader (that is, relative to Pound Net Regulated Areas I and II). One commenter suggested that pound net catch and turtle interactions should be monitored to determine the level of take by unmodified leaders in Pound Net Regulated Area II. One commenter noted that the lack of observed takes and strandings in parts of Pound Net Regulated Area II may be a function of lack of observer effort, not actual lack of sea turtle mortality, and that stranding surveys should be implemented in this area.

Response: In the proposed rule, NMFS put forward for consideration the use of modified leaders in offshore nets in Pound Net Regulated Area I because that was where the gear was tested, where the most observed instances of sea turtle entanglements and impingements occurred, and where NMFS believes the risk of entanglement and impingement of sea turtles is greater based on observer data and on using geographic location as a proxy for the environmental conditions that contribute to entanglements and impingements. The modified leader was designed to provide a benefit to sea turtles over traditional pound net leaders. NMFS agrees that the modified leader should provide a benefit to sea turtles outside the tested area because the modified leader design reduces the amount of mesh in the water column, the vertical lines are spaced to allow sea turtles to pass through more easily, and the vertical lines are stiff to reduce the risk of entanglement. In this final rule, NMFS has included a change from the proposed rule, in that modified leaders are allowed to be fished in nearshore pound net leaders in Pound Net Regulated Area I and in both nearshore and offshore leaders in Pound Net Regulated Area II. NMFS is not requiring the use of modified leaders in those areas, as sea turtle impingements on and entanglements in pound net leaders have been observed to be minimal and mesh size and stringer restrictions remain in place. See section *Changes From Proposed Rule* for more information on allowing the use of modified leaders in nearshore leaders and in leaders in Pound Net Regulated Area II.

Since 2002, NMFS has observed pound net leaders in Pound Net Regulated Area II and maintained a dedicated survey effort in this area during 2004 and 2005. In Pound Net Regulated Area II, one sea turtle interaction was observed in an offshore pound net leader in 2004 (offshore Lynnhaven, Virginia). NMFS acknowledges that after several sea turtle takes were observed in a particular area (*e.g.*, the southern portion of the Eastern shore and Western Bay), more observer effort was concentrated in that area. NMFS does not have any additional plans to monitor the pound net catch and potential sea turtle interactions in Pound Net Regulated Area II at this time. Furthermore, the Sea Turtle Stranding and Salvage Network (STSSN) does collect data from Pound Net Regulated Area II, and documented sea turtle strandings in this area are historically lower than in the southern Chesapeake Bay. NMFS has funded dedicated sea turtle stranding surveys along the southern tip of the Eastern shore in previous years, in response to the historical high levels of documented sea turtle strandings. It is true that more observer effort and sea turtle stranding coverage has been allocated to the Eastern shore in recent years, but NMFS has adequately monitored other pound nets in other areas of the Chesapeake Bay, and the STSSN continues to operate and respond to strandings in all areas of the Chesapeake Bay.

Comment 5: One commenter supported NPA 3 (*i.e.*, required use of the modified leader for all offshore pound net leaders in Pound Net Regulated Areas I and II) based on the historically high levels of sea turtle take attributed to the pound net fishery. Because the proposed action would re-open an area to the use of a modified pound net leader that currently is closed to fishing with pound net leaders, the increase in fishing effort should be offset by additional protection in other geographic areas of the fishery to protect sea turtles.

Response: Despite previous monitoring efforts, only one turtle has been observed entangled in a pound net leader in Pound Net Regulated Area II. NMFS has sufficient evidence to conclude that there is a localized interaction between sea turtles and pound nets along the Eastern shore of Virginia and in the Western Chesapeake Bay. The boundaries of the regulated areas were determined based on a combination of the locations of observed sea turtle entanglements in or impingements on pound net leaders and the area in which sea turtles may face a greater risk of entanglement in or impingement on pound net leaders due to environmental conditions (*e.g.*, current). Given the low number of observations of sea turtles in pound net gear outside Pound Net Regulated Area I and in nearshore nets, NMFS is not requiring the use of the modified pound net leaders in Pound Net Regulated Area II, but instead will allow its use should fishermen choose to switch their gear. The pound net leader mesh size and stringer restrictions promulgated in the 2004 rule remain in effect for Pound Net Regulated Area II.

Given the results of the modified leader experiment, NMFS believes that requiring the use of the modified leader design in the offshore areas of Pound

Net Regulated Area I will afford approximately the same protection to sea turtles as the existing regulations. It is possible that sea turtles may interact with the lower leader mesh because sea turtles in the lower Chesapeake Bay commonly make dives of over 40 minutes during the day (Byles, 1988; Mansfield and Musick, 2003b, 2004) and dive depths range from approximately 13.1 ft (4 m) to 41 ft (12.5 m) (Mansfield and Musick, 2003). However, all interactions during the 2004 and 2005 modified leader experiment were recorded in the top portion of unmodified leaders (at depths within the top two-thirds of the depth of mean lower low water). One turtle was found entangled in the vertical lines of a modified leader during the 2004 experiment; no interactions were observed in the 2005 modified leader during the experiment. As described below, NMFS continues to believe that sea turtle interactions with the bottom mesh are possible, but, as shown by the experiment, are infrequent and are minimized by the leader design. As such, despite the increase in fishing effort, allowing the modified pound net leaders in an area previously closed to leaders is expected to provide a level of protection to sea turtles similar to that of the current closure and restrictions.

Comments Regarding the Modified Pound Net Leader Design

Comment 6: One commenter that participated in the modified pound net leader experiment in 2004 and 2005 stated that he would not switch back and forth between traditional and modified leaders, as he found the modified leader just as effective as the traditional leader at maintaining an acceptable level of fish catch.

Response: NMFS does not object if pound net fishermen choose to fish with the modified pound net leader outside of the regulated time period. There are currently no Federal pound net restrictions in place outside of the time period of May 6 through July 15 that would prevent the modified pound net leader from being used from July 16 through May 5. NMFS recognizes that this may alleviate some costs associated with switching from an unmodified pound net leader to a modified pound net leader to comply with the regulations included in this final rule.

Comment 7: One commenter noted that it is not possible for the modified pound net leader to be one-third the depth of the water at mean lower low water directly above that particular point because the sea floor is contoured, and therefore creating a tapered leader would not be possible. Furthermore, a map displaying the contour of the sea floor is not available. The commenter also stated that if the bottom line of the leader must traverse over an uneven sea bed, then the bottom line, to meet the proposed requirements of a modified leader, must be longer than the top line. This would mean that the ties on the bottom line would have to be farther apart than the top line for the net to be suspended perpendicular to the seafloor. This commenter recommended that the specification of the modified pound net leader be exactly the same as the modified pound net leader specifications used in the 2005 experiment, as the modified leader was effective at preventing entanglement and impingement.

Response: The modified pound net leader was designed cooperatively with pound net fishermen, NMFS, the Virginia Institute of Marine Science, the Virginia Marine Resources Commission, and the Virginia Aquarium and Marine Science Center staff. It is NMFS' intent that the properties of the modified pound net leader in the final regulations be the same as the specifications of the leader that were tested during the experiment. The fishermen that participated in the experiment reported that the modified pound net leaders were tapered (wedge-shaped) such that the depth of the mesh at any point along the leader was never more than one-third the depth of mean low water directly above that particular point. Note that this final rule does not require that the mesh be exactly one-third the depth of the water, but rather that the mesh be *no more* than one-third the depth of the water. In order to achieve this, fishermen may decrease the depth of the mesh as the water becomes shallower by either lacing it into the middle line or cutting it. A contour map of the seafloor is not necessary to achieve this specification. A fisherman may determine the depth of the water along their pound net leader using a marked, weighted line as a measuring tool. Alternatively, a simple fish finder or inexpensive acoustic depth recorder both report bottom depth. The bottom line of the leader may traverse over an uneven sea bed and could, therefore, be longer than the top line. The length of the bottom line would not be affected by the type of leader (modified versus unmodified) being fished.

Comment 8: One commenter, while acknowledging the effectiveness of the modified pound net leader demonstrated through the experiment, noted that it is possible that small turtles that feed on the benthos, such as Kemp's ridleys and loggerheads, may become entangled in or impinged on the mesh of the modified pound net leader in the lower third of the water column in areas where the lower third of the leader is of substantial size.

Response: NMFS agrees that there is some small, unquantifiable risk of entanglement or impingement of sea turtles in the lower third of the modified leader, and this risk is discussed in the EA prepared for this action. The design of the modified leader, including the vertical lines spaced 2 feet (0.61 m) apart, was proposed to allow sea turtles to pass through the upper two-thirds of the leader, through the vertical lines, without entangling in or impinging on the leader. NMFS is aware that some turtles are known to forage on the benthos and around pound nets, and therefore may interact with the lower leader mesh. Further, turtles have been observed to dive to the bottom regardless of water temperature, and loggerheads in the Chesapeake Bay have been observed to spend up to 90 percent of time beneath the surface of the water (Mansfield *et al.*, 2005). Despite this information indicating that turtles could interact with the mesh in the lower third of the modified pound net leader, all interactions during the 2004 and 2005 experiment were recorded in the top portion of the unmodified leaders (at depths within the top two-thirds of the depth of mean lower low water). At this time, data are not available to determine if turtles are likely to become impinged or entangled upon their first contact with the pound net leader or if, once a non-entangling interaction occurs, they attempt to move away (in any direction) from the interaction site and eventually become impinged or entangled after several interactions. If the second scenario occurs, it is possible that a turtle could interact with the bottom mesh of a modified leader in the lower water column without becoming entangled and then move up the leader and through the vertical lines.

NMFS recognizes that it is possible that interactions could have occurred in the bottom one-third of leaders and were not observed during monitoring. In 2001 and 2002, side scan sonar was used to attempt to detect sub-surface sea turtle entanglements, but no verified sea turtle acoustical signatures were observed during these surveys (Mansfield *et al.*, 2002a; Mansfield *et al.*, 2002b). A number of factors are thought to influence the use of side scan sonar, including weather, sea conditions, water turbidity, the size and condition of the animal, and the orientation of the turtle in the net. During the 2004 and 2005 experiment, side scan sonar was again used to detect subsurface sea turtle interactions along

the Eastern shore. The nets were monitored twice each day, both visually (up to the top ten feet of the net) and with sonar, using a diver to visually inspect each suspected sonar contact (DeAlteris *et al.*, 2004). In 2004, two sea turtles were identified through sonar monitoring, and five were found via visual inspection (the visually identified sea turtles had not yet been scanned via sonar). In 2005, sonar monitoring identified four sea turtle interactions independent of leader removal. Because sonar was shown to be a successful method of sea turtle detection during the experiment, NMFS believes it is unlikely that unobserved interactions occurred in the dropped mesh portion of the modified leaders. However, it is possible that an interaction that did not result in a turtle being impinged or entangled occurred as described above (i.e., the turtle interacted with bottom mesh and then moved up the leader and through the vertical lines). If this occurred, the relatively short duration of the interaction would have decreased the probability of the interaction being detected by sonar monitoring.

Comment 9: One commenter noted that the vertical lines used in the modified leader are not without problems as demonstrated by the drowning of one leatherback turtle during the experiment.

Response: In 2004, a dead leatherback sea turtle was found entangled in the vertical line of the experimental leader. The necropsy report indicated that the turtle appeared to be in good health and that the cause of death was entanglement in the pound net leader and drowning. Subsequent histological analysis revealed that the leatherback suffered from ependymoma (brain tumor with possible neurological dysfunction), pneumonia, and hepatitis (Swingle *et al.*, 2005). As a result of the leatherback's entanglement, a different type of line was used for the vertical lines in the modified leader in 2005. In 2004, the vertical line did not have a hard lay and was not painted. In 2005, hard lay line was used, and no sea turtle interactions were documented in the modified leaders. The line used in 2004 was flexible enough to wrap around part of the turtle. Therefore, in 2005, the participants in the experiment used stiffer line so that the line was less likely to wrap around a sea turtle's head or flipper. NMFS believes that the requirement to use hard lay line will prevent sea turtle entanglements in the modified pound net leaders' vertical lines.

Comments on the Definition of Hard Lay Line

Comment 10: One commenter noted that Virginia watermen know what "hard lay" line means, implying that additional specifications in the regulation regarding the type of vertical lines that must be used are unnecessary.

Response: Hard lay is a technical term used by the cordage industry to describe line that is purposefully made to be stiff. As described previously in this final rule, hard lay refers to the tightness of the fibers that are twisted together. Similar materials may be used in soft lay line, but the tightness of the twists provides the rigidity. While industry participants may be familiar with the term hard lay, it is important to ensure the modified leader lines retain the same properties as those used in the experiment in order to protect sea turtles from entanglement. In a previous section, a description of the hard lay line used in the experiment is provided.

Comment 11: One commenter stated that lines made from nylon become soft over time, while lines constructed out of plastics will remain rigid over time. Furthermore, every time the line is painted it becomes stiffer.

Response: NMFS appreciates this comment in order to better understand line characteristics.

Comments Related to Stranding Levels

Comment 12: One commenter stated that the proposed pound net restrictions will not solve the high spring sea turtle stranding problem in Virginia waters. Several commenters indicated that NMFS should provide adequate observer coverage to ascertain other sources of sea turtle mortality (particularly recreational and commercial boating activities and fishing activities).

Response: NMFS agrees with the commenter that pound net restrictions will not solve the high spring sea turtle problem in Virginia waters, given that pound net leaders are not the sole source of spring mortalities. NMFS does believe that pound nets play a role in the annual spring stranding event, based upon observations of entangled and impinged sea turtles on pound net leaders and the location of the majority of sea turtle strandings. Regulating pound net leaders, a gear type known to kill sea turtles by entangling and impinging them, is expected to minimize the effects of one source of mortality that leads to strandings.

Since 2001, several fisheries have been observed in Virginia with few observed turtle takes. However, NMFS recognizes that variations in fishery-turtle interactions may occur in any given year, and is committed to continue monitoring the active fisheries in and around Virginia. The NMFS 2006 monitoring program is anticipated to include observer coverage in the Virginia/Chesapeake Bay gillnet and trawl fisheries. At least 69 days of observer coverage are allocated for gillnet fisheries in the Virginia Chesapeake Bay during May and June 2006. Further, NMFS scientists are evaluating the use of sonar to detect and ascertain the extent of sea turtle interactions in Chesapeake Bay pot gear. NMFS has developed a brochure titled "Marine Mammal and Sea Turtle Protection: Guidelines for Recreational Fishermen," which provides information to minimize sea turtle injuries in recreational fishing gear. NMFS also has plans to work with Virginia organizations to institute an educational campaign aimed at reducing sea turtle interactions with recreational fishermen and boaters.

In 2004 and 2005, NMFS funded professional necropsies and associated lab costs on fresh dead animals in Virginia to determine the health of a subset of stranded animals. Of the 20 sea turtles examined, documented mortality sources included human interactions, such as fisheries entanglements, hook ingestions, and vessel strikes, as well as disease pathologies, pneumonia, and parasites. NMFS will continue to fund these fresh dead professional necropsies in 2006.

NMFS will also continue to closely monitor sea turtle stranding levels and to evaluate interactions with other mortality sources not previously considered that may contribute to sea turtle strandings. NMFS and the U.S. Fish and Wildlife Service (USFWS) are working to minimize the impacts to sea turtles from other activities in addition to fishing (e.g., habitat degradation, marine debris, dredging, water quality, power plant impingement). Fishing activities, however, have been recognized as one of the most significant threats to sea turtle survival (Magnuson *et al.*, 1990, Turtle Expert Working Group 2000).

Comment 13: One commenter noted that as sea turtle populations recover, the number of sea turtle interactions with fishing gear will also increase. The commenter seemed to be asking what NMFS sea turtle program goals are.

Response: All sea turtles are listed as either endangered or threatened under the ESA. The goals of the NMFS sea turtle program include reducing impacts to sea turtles in order to achieve recovery of the species. NMFS evaluates the status of sea turtles through various

avenues (*e.g.*, species status reviews, ESA section 7 consultation process) and is aware of the latest research and survey efforts that monitor population trends. NMFS and USFWS recovery plans are available for each sea turtle species. These recovery plans outline a number of recovery criteria, and associated actions to achieve these criteria, that must be met before delisting. It is possible that an increase in sea turtle abundance would lead to more documented interactions in fishing gear, which, in turn, may lead to additional or different restrictions to help protect the populations. Sea turtles have not recovered and remain in need of protection under the ESA. In the future, NMFS will continue to evaluate sea turtle mortality sources and consider management measures to minimize those threats.

Comment 14: One commenter stated that new information, presented at the 26th Annual Symposium on Sea Turtle Biology and Conservation in April of 2006, indicates that the southern subpopulation of loggerheads has declined 29 percent over the last 17 years. The northern subpopulation of loggerheads also appears to be declining. The commenter provides an opinion that fisheries in the western and eastern Atlantic may be negatively affecting loggerhead populations.

Response: Previously, the status of the northern subpopulation, based on number of loggerhead nests, has been classified as stable or declining (TEWG 2000). Preliminary new analysis of nesting data for 11 beaches in North Carolina, South Carolina, and Georgia shows a declining trend of 2 percent annually over a 23-year period (1982–2005) for the northern loggerhead subpopulation (B. Schroeder, NMFS, pers. comm.). The status of the southern subpopulation is a bit more unclear as the nesting data are currently under review. The southern subpopulation of loggerheads appeared to be stable or increasing based upon annual nesting totals from all beaches from 1989 to 1998 (TEWG 2000). NMFS is aware that a presentation at the 26th Annual Symposium on Sea Turtle Biology and Conservation indicated that, based on an analysis of nesting data, the southern subpopulation of loggerheads has declined 29 percent over the last 17 years (1989–2005; A. Meylan, Florida Fish and Wildlife Conservation Commission, pers. comm.). NMFS continues to evaluate nesting data for loggerheads, and the Loggerhead Recovery Plan (currently under revision) will also contain updated population trend information.

NMFS continues to consider the impacts to listed sea turtles, including loggerheads, and to reduce threats from known sources. NMFS and USFWS are working to minimize the impacts to sea turtles from activities such as nesting habitat degradation, marine debris, dredging, and power plant impingement, but fishing activities have been recognized as one of the most significant threats to sea turtle survival (Magnuson *et al.*, 1990, Turtle Expert Working Group 2000). To respond to these threats, NMFS is comprehensively evaluating the impacts of fishing gear types on sea turtles throughout the U.S. Atlantic Ocean and Gulf of Mexico, as part of the Strategy for Sea Turtle Conservation and Recovery in Relation to Atlantic Ocean and Gulf of Mexico Fisheries (Strategy) (NMFS 2001). Based on the information developed for the Strategy, NMFS may impose restrictions on or modifications to other activities that adversely affect sea turtles. NMFS will continue to monitor fishing activities in Virginia, as well as other potential sea turtle mortality sources.

Comments Related to Economic and Social Impact Assessment

Comment 15: Several commenters expressed concern with the delay in publishing the proposed regulations and requested emergency action to get the regulations in place as soon as possible.

Response: NMFS has been committed to enacting regulations to require modified leaders in a portion of the Virginia pound net fishery as expeditiously as possible, in order to give the fishermen advance notification and ensure measures are in place before the regulated period begins on May 6. However, the new regulations contained in this final rule were not enacted before the start of the fishing season this year. NMFS recognizes that the industry begins planning for the next fishing season in approximately December or January and is sensitive to the industry's time constraints required to outfit their gear in compliance with the regulations.

Changes From the Proposed Rule

Based upon public comments received and further assessment, NMFS has determined that a modification to the measures included in the proposed rule is warranted. Specifically, the proposed rule stated that the existing mesh size and stringer restrictions on nearshore pound net leaders in Pound Net Regulated Area I and on all pound net leaders in Pound Net Regulated Area II would remain in place and are not affected by the proposed rule. In this final rule, the mesh size and stringer restrictions applicable to those leaders continue to remain in effect. However, NMFS has decided to allow fishermen with nearshore leaders in Pound Net Regulated Area I and any type of leader in Pound Net Regulated Area II to use leaders meeting the definition of modified pound net leaders should they so choose. Allowing the use of the modified leader design in these leaders may benefit sea turtles as described in the response to *Comment 4*. However, because specific gear requirements are already in place for nearshore leaders in Pound Net Regulated Area I and all leaders in Pound Net Regulated Area II, and leaders in those locations are less likely to result in sea turtle entanglements and impingements based on existing information, NMFS decided not to require fishermen in those areas to purchase and install a new type of leader. Allowing the use of modified pound net leaders to nearshore nets in Pound Net Regulated Area I and all pound net leaders in Pound Net Regulated Area II falls within the range of alternatives described and analyzed in the draft EA, between the measures included in the proposed rule and NPA 2 (required use of the modified leader in all pound nets set within Pound Net Regulated Areas I and II during the regulated period).

Classification

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

The Assistant Administrator for Fisheries (AA) finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date of this final rule. To determine the appropriate properties for the modified pound net leader in this rulemaking, NMFS needed the results of the 2005 modified pound net leader experiment. The final report for the experiment was not available to NMFS until January 2006. NMFS then reviewed and analyzed the report and integrated the new information into the rulemaking documents.

NMFS has identified a modified leader design that will conserve sea turtles while enabling fishermen to use pound net leaders, and pound net fishermen are not able to fish with their leaders under existing regulations. The existing regulations prohibit the use of offshore pound net leaders, an integral component of pound net gear, in a part of the southern Chesapeake Bay from May 6 to July 15 each year. There is good cause to waive the 30-day delay in the effective date of this final rule as it would enable fishermen to set their leaders immediately and salvage a portion of the spring/summer fishing season, while ensuring that threatened

and endangered sea turtles continue to be protected from fishing mortalities. This final rule also allows fishermen in a different part of the Virginia Chesapeake Bay to use the modified leader if they so choose. The modified leader is expected to benefit sea turtles in that area as well, it provides fishermen with another option for allowable gear and, because this portion of the rule is voluntary, fishermen do not need time to comply.

NMFS has prepared a final regulatory flexibility analysis that describes the economic impact this final rule will have on small entities. A summary of the analysis follows:

A statement of the need for, and objectives of, this rulemaking are presented in the preamble and not repeated here.

The small entities affected by this action are the commercial fishing operations forming the Virginia pound net fishery in the Chesapeake Bay. This action requires any offshore pound net leader set in Pound Net Regulated Area I from May 6 through July 15 each year to meet the definition of a modified pound net leader. This requirement will affect approximately five fishermen (the number that fish offshore leaders in the lower Chesapeake Bay). This action also allows the use of modified pound net leaders in nearshore pound net leaders in Pound Net Regulated Area I and in all leaders set in Pound Net Regulated Area II during this same time frame. This authorization will affect approximately 16 fishermen (the number that fish in the upper bay, who may choose to use the modified leader design). A total of 21 fishermen will be affected by the rule.

NMFS has minimized economic impacts by selecting the alternative adopted in the final rule. That alternative was chosen because it will enable a group of fishermen to use leaders—a key component of pound net gear—during a peak fishing season, thereby enabling them to earn revenues while also reducing impacts of pound net gear on sea turtles. The revenues earned by the group of fishermen required to use modified pound net leaders would be larger than the costs incurred to modify the leaders. The net change in revenues is positive 16.9 to 33.7 percent for the 5 lower bay fishermen. For the 16 upper bay fishermen, there will not be a net change in revenues due to compliance with the rule. This alternative was also selected because it allows, but does not require, fishermen to use modified leaders in a part of the Chesapeake Bay where risks to sea turtles from pound net gear appear to be lower.

Non-preferred alternative 1 (NPA 1) would maintain the current regulations, including a prohibition on the use of offshore pound net leaders in Pound Net Regulated Area I, and would prohibit leaders with stretched mesh greater than or equal to 12 inches (30.5 cm) and leaders with stringers in the remainder of the Virginia Chesapeake Bay during the period of May 6 through July 15 each year. NPA 1 would not have changed the economic status quo. NPA 1 was rejected because it would not take advantage of the modified leader design developed to enable fishermen to generate revenues by fishing while also protecting sea turtles.

Non-preferred alternative 2 (NPA 2) would require any pound net leader used during the period of May 6 through July 15 in either Pound Net Regulated Area I or Pound Net Regulated Area II to be a modified pound net leader. NPA 2 would have imposed economic costs on all pound net fishermen in the Virginia Chesapeake Bay. NPA 2 was rejected because at this time requiring all pound net fishermen in the Virginia Chesapeake Bay to use modified leaders seems overbroad. While lower bay fishermen who are currently prohibited from using offshore leaders will be able to recoup costs through increased fishing opportunity, upper bay fishermen, who are required to use the modified leader under NPA 2, would incur extra costs for minimal benefit to sea turtles given that those fishermen can already fish with leaders subject to mesh size and stringer restrictions designed to protect sea turtles and, at this time, offshore leaders in Pound Net Regulated Area II are not known to present as much of a risk to sea turtles as those in Pound Net Regulated Area I. For the 5 lower bay fishermen, the net change in revenues is positive 12.0 to 28.9 percent while the net change in revenues for the 16 upper bay fishermen is negative by 3.6 to 7.2 percent. NMFS believes tailoring the requirement to the area that presents the greatest risk to sea turtles and allowing (but not requiring) the use of modified leaders in other areas is more appropriate given existing information.

Non-preferred alternative 3 (NPA 3) is similar to the proposed action, but would require the modified pound net leader design to be used in any offshore leader, while any nearshore leader would still be required to use stretched mesh less than 12 inches (30.5 cm) and stringers would be prohibited. NPA 3 would have greater economic effects than the final rule and was rejected because at this time offshore leaders in Pound Net Regulated Area II are not known to present the same risks to sea turtles as those in Pound Net Regulated Area I. In addition, based on existing information, NPA 3 would have been overbroad. While lower bay fishermen using offshore leaders will be able to recoup costs through increased fishing opportunity, upper bay fishermen with offshore leaders in Pound Net Regulated Area II would have incurred extra costs for not much benefit to sea turtles, because those fishermen can already use pound net leaders with mesh size and stringer restrictions designed to protect sea turtles and because of the lesser risk to sea turtles from offshore leaders in Pound Net Regulated Area II. For the 5 lower bay fishermen, the net change in revenues is positive 16.9 to 33.7 percent, while for the 16 fishermen in the upper bay the net change in revenues is negative by 3.6 to 7.2 percent.

This action does not contain new reporting or recordkeeping requirements.

No comments were received specifically on the initial regulatory flexibility analysis. Comments on economic impacts of the proposed rule and response to them appear in the preamble to this final rule and are incorporated herein.

A formal consultation pursuant to section 7 of the ESA was conducted on the previous 2004 rule (69 FR 24997, May 5, 2004). The April 16, 2004 Biological Opinion concluded that the operation of the Virginia pound net fishery with NMFS' sea turtle conservation measures may adversely affect but is not likely to jeopardize the continued existence of the loggerhead, leatherback, Kemp's ridley, green, or hawksbill sea turtle, or shortnose sturgeon. NMFS has determined that this action does not trigger reinitiation of formal consultation.

This final rule contains policies with federalism implications that were sufficient to warrant preparation of the following federalism assessment under Executive Order 13132. The Acting Assistant Secretary for Legislative and Intergovernmental Affairs provided notice of the proposed action to the Governor of Virginia on April 17, 2006. The Secretary of Natural Resources in Virginia responded on behalf of the Governor of Virginia on April 26, 2006. In this letter, he expressed his support of the proposed action, but noted concerns with the delay in publishing the proposed rule and recommended shortening the time frame to implement the final rule. NMFS' position supporting the need to issue the regulations is explained in the preamble to this rule and incorporated herein. NMFS has endeavored to address the

concerns of elected officials by continuing to expedite issuance of the rule. NMFS did find good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date of this final rule, given that such a delay would be contrary to the public interest. The federalism official certifies that NMFS has complied with the requirements of Executive Order 13132 for this final rule.

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List of Subjects

50 CFR Part 222

Endangered and threatened species, Exports, Reporting and recordkeeping requirements.

50 CFR Part 223

Endangered and threatened species, Exports, Transportation.

Dated: June 16, 2006.

James W. Balsiger,

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

■ For reasons stated in the preamble, 50 CFR parts 222 and 223 are amended as follows:

PART 222—GENERAL ENDANGERED AND THREATENED MARINE SPECIES

■ 1. The authority citation for part 222 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*; 16 U.S.C. 742a *et seq.*; 31 U.S.C. 9701.

■ 2. In § 222.102, the definitions of "Modified pound net leader" and "Pound Net Regulated Area I" and "Pound Net Regulated Area II" are added in alphabetical order to read as follows:

§ 222.102 Definitions.

* * * * *

Modified pound net leader means a pound net leader that is affixed to or resting on the sea floor and made of a lower portion of mesh and an upper portion of only vertical lines such that: The mesh size is equal to or less than 8 inches (20.3 cm) stretched mesh; at any particular point along the leader the height of the mesh from the seafloor to the top of the mesh must be no more than one-third the depth of the water at mean lower low water directly above that particular point; the mesh is held in place by vertical lines that extend from the top of the mesh up to a top line, which is a line that forms the uppermost part of the pound net leader; the vertical lines are equal to or greater than 5/16 inch (0.8 cm) in diameter and strung vertically at a minimum of every 2 feet (61 cm); and the vertical lines are hard lay lines with a level of stiffness equivalent to the stiffness of a 5/16 inch (0.8 cm) diameter line composed of polyester wrapped around a blend of polypropylene and polyethylene and containing approximately 42 visible twists of strands per foot of line.

* * * * *

Pound Net Regulated Area I means Virginia waters of the mainstem Chesapeake Bay, south of 37°19.0′ N. lat. and west of 76°13.0′ W. long., and all waters south of 37°13.0′ N. lat. to the Chesapeake Bay Bridge Tunnel (extending from approximately 37°05′ N. lat., 75°59′ W. long. to 36°55′ N. lat., 76°08′ W. long.) at the mouth of the Chesapeake Bay, and the portion of the James River downstream of the Hampton Roads Bridge Tunnel (I–64; approximately 36°59.55′ N. lat., 76°18.64′ W. long.) and the York River downstream of the Coleman Memorial Bridge (Route 17; approximately 37°14.55′ N. lat, 76°30.40′ W. long.)

Pound Net Regulated Area II means Virginia waters of the Chesapeake Bay outside of Pound Net Regulated Area I defined above, extending to the Maryland-Virginia State line (approximately 37°55′ N. lat., 75°55′ W. long.), the Great Wicomico River downstream of the Jessie Dupont Memorial Highway Bridge (Route 200; approximately 37°50.84′ N. lat, 76°22.09′ W. long.), the Rappahannock River downstream of the Robert Opie Norris Jr. Bridge (Route 3; approximately 37°37.44′ N. lat, 76°25.40′ W. long.), and the Piankatank River downstream of the Route 3 Bridge (approximately 37°30.62′ N. lat, 76°25.19′ W. long.) to the COLREGS line at the mouth of the Chesapeake Bay.

* * * * *

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

■ 3. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531–1543; subpart B, § 223.201–202 also issued under 16 U.S.C. 1361 *et seq.*; 16 U.S.C. 5503(d) for § 223.206(d)(9).

■ 4. In § 223.206, paragraph (d)(10) is revised to read as follows:

§ 223.206 Exceptions to prohibitions relating to sea turtles.

* * * * *

(d) * * *

(10) *Restrictions applicable to pound nets in Virginia*—(i) *Offshore pound net leaders in Pound Net Regulated Area I.* During the time period of May 6 through July 15 each year, any offshore pound net leader in Pound Net Regulated Area I must meet the definition of a modified pound net leader. Any offshore pound net leader in Pound Net Regulated Area I that does not meet the definition of a modified pound net leader must be removed from the water prior to May 6 and may not be reset until July 16.

(ii) *Nearshore pound net leaders in Pound Net Regulated Area I and all pound net leaders in Pound Net Regulated Area II.* During the time period of May 6 to July 15 each year, any nearshore pound net leader in Pound Net Regulated Area I and any pound net leader in Pound Net Regulated Area II must have only mesh size less than 12 inches (30.5 cm) stretched mesh and may not employ stringers. Any nearshore pound net leader in Pound Net Regulated Area I or any pound net leader in Pound Net Regulated Area II with stretched mesh measuring 12 inches (30.5 cm) or greater, or with stringers, must be removed from the water prior to May 6 and may not be reset until July 16. A pound net leader is exempt from these measures only if it meets the definition of a modified pound net leader.

(iii) *Protocol for measuring mesh size.* This protocol applies to measuring mesh size in leaders described in 50 CFR 223.206(d)(10)(i) and 223.206(d)(10)(ii). Mesh sizes are measured by a wedge-shaped gauge having a taper of 0.79 in. (2 cm) in 3.15 in. (8 cm) and a thickness of 0.09 in. (2.3 mm) inserted into the meshes under a pressure or pull of 11.02 lb. (5 kg). The mesh size is the average of the measurement of any series of 20 consecutive meshes. The mesh in the leader is measured at or near the horizontal and vertical center of a leader panel.

(iv) *Reporting requirement.* At any time during the year, if a sea turtle is taken live and uninjured in a pound net operation, the operator of the vessel must report the incident to the NMFS Northeast Regional Office, (978) 281–9328 or fax (978) 281–9394, within 24 hours of returning from the trip in which the incidental take was discovered. The report shall include a description of the sea turtles condition at the time of release and the measures taken as required in paragraph (d)(1) of this section. At any time during the year, if a sea turtle is taken in a pound net operation, and is determined to be injured, or if a turtle is captured dead, the operator of the vessel shall immediately notify NMFS Northeast Regional Office and the appropriate rehabilitation or stranding network, as determined by NMFS Northeast Regional Office.

(v) *Monitoring.* Owners or operators of pound net fishing operations must allow access to the pound net gear so it may be observed by a NMFS-approved observer if requested by the Northeast Regional Administrator. All NMFS-approved observers will report any violations of this section, or other applicable regulations and laws. Information collected by observers may be used for law enforcement purposes.

(vi) *Expedited modification of restrictions and effective dates.* From May 6 to July 15 of each year, if NMFS receives information that one sea turtle is entangled alive or that one sea turtle is entangled dead, and NMFS determines that the entanglement contributed to its death, in pound net leaders that are in compliance with the restrictions described in paragraph (d)(10)(ii) of this section, NMFS may issue a final rule modifying the restrictions on pound net leaders as necessary to protect threatened sea turtles. Such modifications may include, but are not limited to, reducing the maximum allowable mesh size of pound net leaders and prohibiting the use of pound net leaders regardless of mesh size. In addition, if information indicates that a significant level of sea turtle entanglements, impingements or strandings will likely continue beyond July 15, NMFS may issue a final rule extending the effective date of the restrictions, including any additional restrictions imposed under this paragraph (d)(10)(vi), for an additional 15 days, but not beyond July 30, to protect threatened sea turtles.

[FR Doc. 06–5608 Filed 6–20–06; 2:19 pm]

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Proposed Rules

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

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 490

RIN 1904–AB66

Alternative Fuel Transportation Program; Alternative Compliance

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of proposed rulemaking and opportunity for comment.

SUMMARY: The Department of Energy (DOE) today publishes a proposed rule to implement section 514 of the Energy Policy Act of 1992, as amended by section 703 of the Energy Policy Act of 2005, which allows States and alternative fuel providers to petition for a waiver of the alternative fueled vehicle (AFV) acquisition requirements in 10 CFR part 490. The new law requires a State entity or alternative fuel provider requesting a waiver to show that in lieu of complying with the applicable AFV acquisition requirement for a model year, it will take other actions to reduce its annual petroleum motor fuel consumption by an amount equal to 100 percent alternative fuel use in all of the fleet's AFVs, including AFVs that the State entity or alternative fuel provider would have been required to acquire if there was no waiver.

DATES: Public comment on this proposed rule will be accepted until August 7, 2006. A public workshop will be held on July 12, 2006, from 9 a.m. to 4 p.m. Interested persons who wish to speak at the public workshop should telephone Ms. Linda Bluestein at (202) 586–6116, by 4:30 p.m. on July 7, 2006. Each presentation is limited to 20 minutes.

ADDRESSES: You may submit comments, identified by RIN 1904–AB66, by any of the following methods:

1. Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
2. E-mail to *linda.bluestein@ee.doe.gov*. Include RIN 1904–AB66 in the subject line of the e-mail. Please include the full body of your comments in the text of the message or as an attachment.
3. Mail: Address written comments to Ms. Linda Bluestein, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, FreedomCAR and Vehicle Technologies Program, Mailstop EE–2G, Room 5F–034, 1000 Independence Avenue, SW., Washington, DC 20585–0121.

Due to potential delays in DOE's receipt and processing of mail sent through the U.S. Postal Service, we encourage respondents to submit comments electronically to ensure timely receipt.

The public workshop for this rulemaking will be held in Washington, DC, at the DOE Forrestal Building in Room 1E–245, 1000 Independence Avenue, SW., Washington, DC.

This notice of proposed rulemaking, the public workshop transcript, and any comments that DOE receives are being made available on the Alternative Fuel Transportation Program Web site at: *http://www.eere.energy.gov/vehiclesandfuels/epact/state/state_resources.html*. You also may obtain copies of comments by contacting Ms. Bluestein.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Bluestein, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, FreedomCAR and Vehicle Technologies Program, Mailstop EE–2G, Room 5F–034, 1000 Independence Avenue, SW., Washington, DC 20585–0121; (202) 586–6116 or *linda.bluestein@ee.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

In August 2005, the Energy Policy Act of 2005, Public Law 109–58, (EPACT 2005) was signed into law. The law adds new flexibility for State and alternative fuel provider fleets subject to AFV acquisition requirements under 10 CFR part 490, the Alternative Fuel Transportation Program. Specifically, section 703 of EPACT 2005 adds section 514 (entitled "Alternative Compliance") to title V of the Energy Policy Act of 1992 (Act) (42 U.S.C. 13251 *et seq.*). Section 514 authorizes DOE to grant to covered alternative fuel providers (hereafter "covered persons") and States with credits under section 508 of the Act a waiver from the AFV acquisition requirements under section 501 (42 U.S.C. 13251) and section 507(o) (42 U.S.C. 13257(o)), respectively. The statute provides that any State or covered person may apply for an alternative compliance waiver, and that DOE must grant the waiver if the State or covered person demonstrates that its fleet will reduce annual petroleum consumption by an amount equal to the amount of petroleum it would reduce if the fleet's cumulative inventory of AFVs operated 100 percent of the time on alternative fuel (42 U.S.C. 13264(a) and (b)). The State or covered person requesting a waiver also must be in compliance with all applicable vehicle emission standards established by the Environmental Protection Agency under the Clean Air Act.

Today's proposed rule would establish procedures for the submission of, and action on, applications for alternative compliance waivers submitted by States and covered persons subject to AFV acquisition requirements under 10 CFR part 490. Proposed new subpart I of part 490 includes provisions regarding the timing of waiver requests and responses by DOE, waiver documentation and submission requirements, annual reporting of petroleum reductions, use of credits to offset petroleum reduction shortfall, rollover of excess petroleum reduction to future years, enforcement for violations, and record retention.

II. Discussion

Under the proposed rule, a State or covered person must submit a waiver application to DOE no later than March 31 of the year before the model year for which it requests a waiver. The proposed rule would require a waiver application to include a minimum amount of information to enable DOE to make a decision about granting the waiver. DOE would evaluate applications for waivers on a case-by-case basis. The proposed rule provides that DOE would grant or deny a waiver

within 45 working days from the time a complete application is submitted.

Fleets operating under a waiver would be allowed to choose various strategies or actions to reduce petroleum motor fuel consumption. For example, some States or covered persons may meet their annual petroleum reduction requirement by combining alternative fuel use by existing fleet AFVs with petroleum reductions from the use of hybrid vehicles, which are not counted towards meeting the AFV acquisition requirements because they are not primarily powered by electricity (an alternative fuel). A fleet could also meet its petroleum reduction requirement with alternative fuel or other replacement fuel use in vehicles of more than 8,500 lb gross vehicle weight rating (gvwr) or in light-duty vehicles that are excluded, by statute and part 490, from covered fleets.

Eligibility for an Alternative Compliance Waiver

Section 514(a) of the Act provides that any covered person subject to the AFV acquisition requirements of section 501 and any State subject to the AFV acquisition requirements of section 507(o) may petition the Secretary of Energy for a waiver of those requirements. Section 514(b) of the Act provides that the Secretary *shall* grant a waiver of the AFV acquisition requirements on a showing that a *fleet* owned, operated, leased or otherwise controlled by a covered person or State entity given credit under section 508 will achieve a specified reduction in the annual consumption of petroleum fuels and is in compliance with all applicable vehicle emission standards established by the Environmental Protection Agency under the Clean Air Act. For both covered persons and State entities given credit under section 508, the statute requires DOE to grant a waiver on a showing that petroleum motor fuel consumption will be reduced in an amount equal to the amount of petroleum the fleet's cumulative inventory of AFVs would reduce if those vehicles operated 100 percent of the time on alternative fuel. The term "fleet" is defined in title V of the Act to include only covered light-duty vehicles (LDVs) (42 U.S.C. 13211(9)).

While section 514(b) specifies a showing that, if met, requires DOE to grant a waiver, there is a gap in the statute because section 514(b), read in light of the surrounding provisions in section 514 and elsewhere in title V of the Act, does not *directly* address two questions. The first question is whether DOE may grant a section 514(a) waiver petition if the applicant makes a showing of replacement fuel use attributable to medium- or heavy-duty vehicles or other vehicles outside of its covered light-duty vehicle fleet. The second question is whether DOE may grant a petition by a State that makes the requisite showing of replacement fuel substitution even though that State has only complied with its minimum AFV acquisition requirements and does not have cumulative credits under section 508 of the Act. To fill the gap in the statute, DOE proposes to exercise its rulemaking authority under title V and section 644 of the DOE Organization Act (42 U.S.C. 7254) to propose provisions that address these questions.

First, proposed § 490.802 provides for the grant of a waiver to a covered person or State entity that demonstrates it will achieve the specified level of petroleum fuel reduction in any of its motor vehicles, not just covered LDVs. Thus, under the proposed rule, a State or covered person receiving a waiver would be allowed to use alternative fuel or other replacement fuels in vehicles that are not part of the covered "fleet," such as medium- and heavy-duty vehicles and excluded LDVs, to meet its petroleum reduction requirement. DOE believes this additional flexibility will make the alternative compliance option attractive to more fleets, and this, in turn, is likely to lead to somewhat greater petroleum displacement. While State entities that meet the minimum AFV acquisition requirements in section 507(o) are not required by the Act to use alternative fuel in their AFVs,[1] fleets operating under a waiver must reduce petroleum motor fuel consumption by an amount equal to the amount of petroleum the fleet's cumulative inventory of AFVs would reduce if those AFVs operated 100 percent of the time on alternative fuel. Because AFVs in State fleets that are flexible or dual-fuel vehicles often operate on petroleum fuel, increased use of the waiver option would result in greater petroleum displacement.

Second, proposed § 490.802 provides that States that have not been given credits under section 508 of the Act must meet the same eligibility criteria as States that have received such credits. While a majority of State fleets have complied with AFV acquisition requirements using credits earned under section 508 for AFV acquisitions in excess of model year requirements, a significant number of State fleets have not received section 508 credits. DOE is unable to discern any basis for treating State entities that have not earned credits differently than State entities that have earned credits, or any harm to the apparent goal of the statute that would result from subjecting all States to the same eligibility criteria. Thus, all States requesting a waiver would be required to demonstrate that they will achieve the same amount of annual petroleum reduction, and that they are in compliance with applicable Clean Air Act standards.

Petroleum Reduction Calculation

Section 514(b) provides that for covered persons, the specified annual reduction in petroleum consumption is the amount that would result from "100 percent cumulative compliance with the fuel use requirements in section 501" (42 U.S.C. 13264(b)(1)(A)). For States, the specified annual reduction in petroleum consumption is the amount equal to "the annual consumption by the State entity of alternative fuels if all of the cumulative alternative fuel vehicles of the State entity given credit under section 508 were to use alternative fuel 100 percent of the time" (42 U.S.C. 13264(b)(1)(B)). The language of these provisions differs slightly because, as previously mentioned, there is a statutory fuel use requirement for covered persons in the Act, but none for State fleets.

Consistent with the statute, proposed § 490.802 would require both covered persons and State entities to reduce petroleum fuel consumption by an amount equal to the amount of petroleum the fleet's cumulative inventory of AFVs, including required AFV acquisitions in waiver years, would reduce if those vehicles operated 100 percent of the time on alternative fuel. The inclusion of required AFV acquisitions in waiver years is compelled by the statute's apparent purpose of providing States and covered persons compliance flexibility in exchange for achieving the maximum level of petroleum fuel reduction that would occur if the State or covered person were to comply with the Act's AFV acquisition requirements. If AFV requirements for waiver years were not included in the cumulative AFV count, a State or covered person that requests a waiver in successive years would have rapidly diminishing petroleum reduction requirements, and that would be unreasonable in light of the petroleum replacement goal of the statute.

The following example is provided to show how the petroleum reduction requirement would apply in successive years for which a covered person

[1] The Act does require alternative fuel use in AFVs acquired by covered persons. *See* 42 U.S.C. 13251(a)(4).

requests an alternative compliance waiver:

In year 1, the covered person has 25 AFVs in its fleet and has an AFV acquisition requirement of 9. The AFV requirement is based on the number of LDVs that the fleet anticipates acquiring during the waiver year. In this example, the covered person anticipates acquiring 10 LDVs, and has an AFV acquisition requirement of 9 AFVs (10 vehicles x 90 percent fuel provider requirement). Thus, the cumulative total of AFVs in inventory and AFV acquisition requirements is 34. Because the covered person's LDVs have an average fuel consumption of 500 gasoline gallon equivalents (gge)/year, the total amount of petroleum that the covered person must reduce in the first waiver year is 17,000 gge (34 AFVs and AFV requirements combined, multiplied by 500 gge).

In year 2, the fleet has retired 10 of the original AFVs from its inventory, which leaves a total of 15 of the 25 AFVs originally counted in year 1. The fleet again plans to acquire 10 LDVs, thus generating a requirement to acquire 9 AFVs in year 2. Since the average number of years that this fleet keeps an AFV is 4 years, the 9 AFVs required in year 1 are included in the calculation of the year 2 required petroleum reduction. This results in a total of 33 AFVs (15 + 9 + 9) and a total petroleum reduction requirement of 16,500 gge for year 2 (assuming the same average fuel consumption per vehicle).

In year 3, the fleet has retired 10 more of the original AFVs, leaving 5 in its inventory, and it is again required to acquire 9 AFVs. The calculation of the year 3 petroleum reduction includes the 9 AFVs required for each of years 1 and 2. Therefore, the total AFV count for year 3 is 32 (5 + 9 + 9 + 9), and the petroleum reduction requirement for year 3 is 16,000 gge.

In year 4, the fleet has retired the last 5 of the original AFVs and plans to acquire 10 LDVs, generating a requirement of 9 AFVs. A total of 36 AFVs are included in the baseline calculation (9 + 9 + 9 + 9), and the petroleum reduction requirement for year 4 is 18,000 gge.

In year 5, the fleet retires the 9 LDVs represented by the first waiver year's AFV requirements (the fleet retires LDVs after 4 years). The fleet acquires 10 more LDVs, generating 9 AFV requirements. Therefore, the total AFV count for year 5 is 36 and the total petroleum requirement for year 5 is 18,000 gge.

Although simplified, this example shows how DOE proposes to implement the cumulative compliance/AFV language in section 514(b) to calculate a covered person's petroleum reduction requirement. The same approach would be used to determine the reduction for a State entity, but the applicable AFV acquisition percentage (75 percent) in section 507(o) would be used.

The application for a waiver. Proposed § 490.803 specifies the items of information that an applicant for an alternative compliance waiver would have to submit to DOE for the model year for which it is seeking a waiver. These items of information are:

- The model year for which the State or covered person is requesting the waiver;
- The average length of time a LDV stays in the State's or covered person's fleet until retirement;
- The number of AFVs that the State or covered person would be required to acquire during the waiver year, calculated in the same way as AFV requirements are calculated on DOE Form FCVT 101;
- The total number of AFVs in the fleet inventory during the waiver year, including AFVs previously reported to DOE on Form FCVT 101 and AFV requirements for the waiver year and preceding waiver years, and excluding AFVs that will be retired before the beginning of the waiver year;
- The average annual fuel consumption in gges of the fleet's LDVs, which may be an average of previous years' consumption, and an estimate of per vehicle consumption;
- The estimated amount of petroleum that the fleet must reduce during the waiver year, estimated by multiplying the number of fleet AFVs, including AFV requirements accumulated during the current and previous waiver years, by the average LDV fuel consumption;
- A detailed plan describing the actions or strategies the State or covered person will pursue to reduce petroleum consumption and the amount of petroleum reduction anticipated from each action or strategy; and
- Documents or a certification by a responsible official of the State or covered person showing the fleet is in compliance with all applicable Clean Air Act vehicle emission standards.

The information a State or covered person submits to DOE with its alternative compliance plan must be verifiable and from credible sources. Sources of fuel economy and efficiency information must be documented. Under proposed § 490.809, a State or covered person would be required to keep all documents pertaining to its application and compliance with a waiver for a minimum of three years following the end of the waiver year.

Use of credits. DOE recognizes that a fleet, despite good faith efforts, may fail to achieve the required petroleum reduction in a model year because the amount will have been estimated based on assumptions about the number of vehicles and the actual amount of fuel the fleet would use in the following model year. DOE, therefore, provides in proposed § 490.805 that a State or covered person may request to use credits purchased or earned pursuant to 10 CFR subpart F to offset a shortfall in its reduction of petroleum.

Rollover of excess petroleum reduction. Proposed § 490.806 provides that a State or covered person that overcomplies with its petroleum reduction requirement under subpart I may request that the excess reduction be applied to meet the petroleum reduction requirement in one or more future years. For example, if a fleet reduces petroleum use by 65,000 gallons, but is only required under the terms of the waiver to reduce 60,000 gallons, the excess 5,000 gallons could be applied to meet the petroleum reduction required in the next waiver year or some future year for which a waiver is requested.

Annual report. Section 514(c) of the Act requires a State or covered person that is granted a waiver to submit a report to DOE not later than December 31 following the model year for which the waiver is granted (42 U.S.C. 13264(c)). This provision would be implemented by proposed § 490.807.

Sanctions for violations. Section 514(d) of the Act provides that DOE shall revoke the waiver of a State or covered person that fails to comply with the alternative compliance petroleum reduction or reporting requirements, and that DOE may impose a civil penalty for any such violation (42 U.S.C. 13264(d)). This section would be implemented by proposed § 490.808.

Exemptions. DOE will not grant exemptions to a State under 10 CFR § 490.204 or to a covered person under 10 CFR 490.308 if the State or covered person has been granted an alternative compliance waiver. Exemptions are based upon lack of alternative fuels and/or AFVs. Because a fleet operating under a waiver has the flexibility to consider all available technologies for meeting its petroleum consumption reduction requirement, it has no need for an exemption.

III. Public Comment Procedures

A. Written Comments

Interested persons are invited to participate in this proceeding by submitting data, views, or arguments. Written comments should be submitted

to the address, and in the form, indicated in the **ADDRESSES** section of this notice of proposed rulemaking. To help DOE review the comments, interested persons are asked to refer to specific proposed rule provisions, if possible.

If you submit information that you believe to be exempt by law from public disclosure, you should submit one complete copy, as well as one copy from which the information claimed to be exempt by law from public disclosure has been deleted. DOE is responsible for the final determination with regard to disclosure or nondisclosure of the information and for treating it accordingly under the DOE Freedom of Information Act regulations at 10 CFR 1004.11.

B. Public Workshop

A public workshop will be held at the time, date, and place indicated in the **DATES** and **ADDRESSES** sections of this notice of proposed rulemaking. Any person who is interested in making an oral presentation should make a phone request to the person and telephone number in the **DATES** section by 4:30 p.m. on the date specified for making such requests. The person should provide a daytime phone number where he or she can be reached. Each oral presentation will be limited to 20 minutes. Persons making an oral presentation are requested to bring three copies of their prepared statement to the workshop and submit them to the registration desk.

DOE reserves the right to select the persons who will speak. DOE also reserves the right to schedule speakers' presentations and to establish the procedures for conducting the workshop. A DOE official will be designated to preside at the workshop. The workshop will not be a judicial or evidentiary-type hearing, but will be conducted in accordance with 42 U.S.C. 7191. Any further procedural rules for the conduct of the workshop will be announced by the presiding official.

A transcript of the workshop will be made, and the entire record of this rulemaking will be retained by DOE and made available as provided in the **ADDRESSES** section of this notice of proposed rulemaking.

IV. Regulatory Review

A. Executive Order 12866

Today's proposed rule has been determined to not be a significant regulatory action under Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (October 4, 1993). Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs of the Office of Management and Budget.

B. National Environmental Policy Act

DOE has determined that this proposed rule is covered under the Categorical Exclusion found in the DOE's National Environmental Policy Act regulations at paragraph A.5 of Appendix A to Subpart D, 10 CFR part 1021, which applies to rulemaking that amends an existing rule or regulation which does not change the environmental effect of the rule or regulation being amended. Under the proposed rule, a State entity or alternative fuel provider requesting an alternative compliance waiver must show that in lieu of acquiring AFVs for its covered light-duty vehicle fleet, it would use alternative fuel and/or other replacement fuels in various types of motor vehicles to reduce petroleum fuel consumption by an amount that equals 100 percent alternative fuel use in the fleet's AFVs, including AFVs that would be required in waiver years. The statute, therefore, grants the waiver applicant greater compliance flexibility in exchange for achieving the maximum level of petroleum reduction that would occur if the State or covered person were to comply with the Act's AFV acquisition requirements. Because the amount of petroleum displaced would be the same, the proposed rule would not change the environmental effect of compliance with 10 CFR part 490. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, "Proper Consideration of Small Entities in Agency Rulemaking," 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process (68 FR 7990). DOE has made its procedures and policies available on the Office of General Counsel's Web site: *http://www.gc.doe.gov.*

DOE has reviewed today's proposed rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. The requirements in 10 CFR part 490 apply only to alternative fuel providers with fleets containing at least 50 LDVs (20 of which are centrally fueled or capable of being centrally fueled) and to like-size State fleets in metropolitan statistical areas with a population of more than 250,000. The owners and operators of fleets of this size are not small entities. In addition, the proposed rule establishes voluntary procedures for State entities and covered persons that wish to receive a waiver from otherwise applicable AFV acquisition requirements. Alternative compliance does not impose any additional burdens on the entities subject to sections 501 and 507(o) of the Energy Policy Act of 1992. On the basis of the foregoing, DOE certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared a regulatory flexibility analysis for this rulemaking. DOE's certification and supporting statement of factual basis will be provided to the Chief Counsel for Advocacy of the Small Business Administration pursuant to 5 U.S.C. 605(b).

D. Paperwork Reduction Act

Proposed § 490.803 ("Application for wavier"), proposed § 490.807(c) ('Reporting requirement"), and proposed § 490.809 (Record retention) contain information collection requirements. DOE has submitted this proposed collection of information to the Office of Management and Budget for approval pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) and the procedures implementing that Act, 5 CFR 1320.1 et seq. A person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DOE estimates that alternative compliance waivers will be requested for 15 State and fuel provider fleets. Part of the information specified in § 490.803 that a State or covered person would be required to submit with its application for a waiver under proposed subpart I is already required for reporting pursuant to 10 CFR 490.205 and 490.309. DOE estimates the additional burden required to provide information pertaining to its required petroleum reduction and plan for achieving that reduction to be 21 hours for each model year for which a waiver is requested. DOE estimates that a State or covered person would expend 20 hours to comply with the reporting requirements

in § 490.803 ("Application for waiver") and § 490.807 ("Reporting requirement") and 1 hour to comply with the recordkeeping requirement in § 490.809. DOE estimates the total annual costs of a State or covered person that receives an alternative compliance waiver would be $1,134.00 for each fleet subject to the waiver.

DOE invites public comment on: (1) Whether the proposed information collection requirements are necessary for the performance of DOE's functions, including whether the information will have practical utility; (2) the accuracy of DOE's estimates of the burden of the proposed information collection requirements; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection requirements on respondents. Comments should be addressed to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, OMB, 725 17th Street, NW., Washington, DC 20503. Persons submitting comments to OMB also are requested to send a copy to the contact person at the address given in the **ADDRESSES** section of this notice of proposed rulemaking. Interested persons may obtain a copy of the DOE's Paperwork Reduction Act Submission to OMB from the contact person named in this notice of proposed rulemaking.

E. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) generally requires Federal agencies to examine closely the impacts of regulatory actions on State, local, and tribal governments. Subsection 101(5) of title I of that law defines a Federal intergovernmental mandate to include any regulation that would impose upon State, local, or tribal governments an enforceable duty, except a condition of Federal assistance or a duty arising from participating in a voluntary Federal program. Title II of that law requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and tribal governments, in the aggregate, or to the private sector, other than to the extent such actions merely incorporate requirements specifically set forth in a statute. Section 202 of that title requires a Federal agency to perform a detailed assessment of the anticipated costs and benefits of any rule that includes a Federal mandate which may result in costs to State, local, or tribal governments, or to the private sector, of $100 million or more. Section 204 of that title requires each agency that proposes a rule containing a significant Federal intergovernmental mandate to develop an effective process for obtaining meaningful and timely input from elected officers of State, local, and tribal governments.

This proposed rule would provide an alternative compliance option for States and alternative fuel providers subject to AFV acquisition requirements in 10 CFR part 490. The proposed rule would not result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of $100 million or more in any one year. Accordingly, no assessment or analysis is required under the Unfunded Mandates Reform Act of 1995.

F. Treasury and General Government Appropriations Act, 1999

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

G. Executive Order 13132

Executive Order 13132, "Federalism," 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. DOE has examined this proposed rule and has determined that it would not preempt State law and would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. No further action is required by Executive Order 13132.

H. Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, the proposed rule meets the relevant standards of Executive Order 12988.

I. Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB.

OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

J. Executive Order 13211

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001) requires Federal agencies to prepare and submit to the OMB, a Statement of Energy Effects for any proposed significant energy action. A "significant energy action" is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the

supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. Today's regulatory action would not have a significant adverse effect on the supply, distribution, or use of energy and is therefore not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

Approval by the Office of Secretary

The Secretary of Energy has approved the issuance of this notice of proposed rulemaking.

List of Subjects in 10 CFR Part 490

Energy, Energy conservation, Fuel, Motor vehicles, Petroleum, and Recordkeeping and reporting requirements.

Issued in Washington, DC, on June 19, 2006.

Alexander A. Karsner,

Assistant Secretary, Energy Efficiency and Renewable Energy.

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

PART 490—ALTERNATIVE FUEL TRANSPORTATION PROGRAM

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

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

§ 490.600 [Amended]

2. Section 490.600 of subpart G is amended by replacing the word "or" after the number "507" with a comma and adding the words "or 514" after the number "508".

§ 490.603 [Amended]

3. Section 490.603 of subpart G is amended by removing the word "or" after the number "503(b)" and adding the words "or 514" after the number "507".

4. A new subpart I is added to read as follows:

Subpart I—Alternatve Compliance

Sec.

Subpart I—Alternative Compliance

§ 490.801 Purpose and scope.

This subpart implements section 514 of the Act (42 U.S.C. 13264) which allows States and alternative fuel providers to petition for alternative compliance waivers from the alternative fueled vehicle acquisition requirements in subparts C and D of this part, respectively.

§ 490.802 Eligibility for alternative compliance waiver.

Any State subject to subpart C of this part and any covered person subject to subpart D of this part may apply to DOE for a waiver of the applicable alternative fueled vehicle acquisition requirements if the fleet owned, operated, leased, or otherwise controlled by the State or covered person:

(a) Will achieve a reduction in the annual consumption of petroleum fuels by its motor vehicles equal to the amount of alternative fuel the fleet's inventory of alternative fueled vehicles, including alternative fueled vehicles that the State or covered person would have been required to acquire in model years for which a waiver is received, would use if operated 100 percent of the time on alternative fuel; and

(b) Is in compliance with all applicable vehicle emission standards established by the Administrator of the Environmental Protection Agency under the Clean Air Act (42 U.S.C. 7401 *et seq.*).

§ 490.803 Application for waiver.

(a) A State or covered person must apply for an entire fleet for a waiver for each full model year for which it requests alternative compliance under this subpart. DOE does not grant a waiver for less than an entire fleet or a full model year.

(b) To provide a sufficient amount of time for DOE action on the request, a State or covered person must submit its application to DOE no later than March 31 prior to the model year for which it seeks a waiver.

(c) A waiver application must include verifiable data that is sufficient to enable DOE to determine whether the State's or covered person's fleet will achieve the amount of petroleum reduction required for alternative compliance and whether the fleet is in compliance with Clean Air Act vehicle emission standards. As a minimum, the State entity or covered person must provide DOE with the following information:

(1) The model year for which the waiver is requested;

(2) The anticipated total number of alternative fueled vehicles in the fleet for the model year for which a waiver is requested, including alternative fueled vehicle acquisition requirements accumulated in previous waiver years, and excluding any covered vehicles that are to be retired before the beginning of the waiver year;

(3) The average length of time a light-duty vehicle stays in the fleet;

(4) The number of alternative fueled vehicles that the State or covered person would, without a waiver, be required to acquire during the model year for which a waiver is requested;

(5) The anticipated amount of gasoline and diesel and alternative fuel (calculated in gasoline gallon equivalents (gge) using the conversion table provided on the FreedomCAR and Vehicle Technologies Program Web site at: *http://www1.eere.energy.gov/vehiclesandfuels/epact/state/state_resources.html*) to be used by the light-duty vehicles in the fleet for the waiver year including an estimate of per vehicle average fuel use in these vehicles;

(6) A petroleum reduction plan as described in paragraph (d) of this section; and

(7) Documents, or a certification by a responsible official of the State or covered person, showing the fleet is in compliance with all applicable vehicle emission standards established by the Administrator of the Environmental Protection Agency under the Clean Air Act.

(d) The petroleum reduction plan required by paragraph (c)(7) of this section must contain a well-documented explanation as to how the State or covered person will meet the reduction in petroleum consumption required by § 490.802(a) of this subpart.

(1) The planned actions must be:

(i) Verifiable;

(ii) Involve a reduction in petroleum use by motor vehicles owned, operated, leased, or otherwise controlled by the State or covered person; and

(iii) Deliver a net reduction in petroleum consumption equal to the amount of alternative fuel the fleet's inventory of alternative fueled vehicles, including alternative fueled vehicles that the State or covered person would have been required to acquire in waiver

years, would use if operated 100 percent of the time on alternative fuel.

(2) The plan must provide for the reduction of petroleum motor fuel by the State's or covered person's own vehicles and, therefore, may not include incentives for third parties to reduce their petroleum use or petroleum reductions that are not transportation-related.

(3) The documentation for the plan may include, but is not limited to, published data on fuel efficiency, Government data, letters from manufacturers, and data on actual usage.

(e) If DOE determines that the information provided in the application is not sufficient for making a decision, it shall notify the State or covered person of the information that must be submitted before DOE can act on the application.

(f) A State or covered person must submit its application for an alternative compliance waiver on official company or agency letterhead and in triplicate to: Ms. Linda Bluestein, Regulatory Manager, FreedomCAR and Vehicle Technologies Program, EE–2G/Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

§ 490.804 Action on an application for waiver.

(a) DOE shall grant or deny a waiver application within 45 working days after it receives a complete application.

(b) DOE shall grant the State or covered person a waiver if it determines that:

(1) The requirements for eligibility in § 490.803 are met; and

(2) The State or covered person has complied with all of the requirements in this subpart.

§ 490.805 Use of credits to offset petroleum reduction shortfall.

(a) A State or covered person granted a waiver under this subpart may submit to DOE a request in writing to use alternative fueled vehicle credits purchased or earned pursuant to subpart F of this part to offset any shortfall in meeting the petroleum reduction required under § 490.802 of this subpart.

(1) The State or covered person must provide details about the particular circumstances that led to the shortfall and demonstrate that it did everything under its control to meet its petroleum reduction requirement.

(2) DOE may ask the State or covered person to supply additional information about the fleet and its operation if such information is considered necessary for a decision on the request.

(b) If DOE grants the request, it shall notify the State or covered person of the credit amount required to offset the shortfall. DOE shall derive the credit amount using the fleet's fuel use per vehicle data.

(c) DOE shall give the State entity or covered person until March 31 following the model year for which the waiver is granted, to acquire the number of credits required for compliance with this subpart.

§ 490.806 Rollover of excess petroleum reduction.

(a) A State or covered person that has achieved petroleum reduction in excess of the amount required for alternative compliance in a model year may submit to DOE a request that it be allowed to roll over the excess petroleum reduction to meet the petroleum reduction requirement in a future model year for which it requests a waiver.

(b) After considering the request and supporting information, DOE shall notify the State or covered person of the amount of petroleum reduction that it may apply towards meeting a future model year's petroleum reduction requirement.

§ 490.807 Reporting requirement.

(a) By December 31 following a model year for which an alternative compliance waiver is granted, a State or covered person must submit a report to DOE that includes:

(1) A statement certifying:

(i) The total number of petroleum gallons and/or alternative fuel gge used by the fleet during the waiver year in its covered light-duty vehicles; and

(ii) The amount of petroleum motor fuel reduced by the fleet in the waiver year through alternative compliance; and

(2) A projection of the baseline quantity of the petroleum motor fuel reduction of the State or covered person during the following model year, if the State or covered person intends to request alternative compliance for that model year.

(b) A State or covered person must send its report to DOE on official company or agency letterhead, and the report must be signed by a responsible company or agency official.

§ 490.808 Violations.

If a State or covered person that receives a waiver under this subpart fails to comply with the petroleum motor fuel reduction or reporting requirements of this subpart, DOE shall revoke the waiver. DOE also may impose on the State or covered person a penalty under subpart G of this part.

§ 490.809 Record retention.

A State or covered person that receives a waiver under this subpart must retain documentation pertaining to its waiver application and alternative compliance, including petroleum fuel reduction by its fleet, for a period of three years after the end of the model year for which the waiver is granted.

[FR Doc. E6–9928 Filed 6–22–06; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE253, Notice No. 23–06–05–SC]

Special Conditions; Cessna Aircraft Company Model 510 Airplane; Turbofan Engines and Engine Location

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Cessna Aircraft Company, Model 510 airplane. This new airplane will have novel and unusual design features not typically associated with normal, utility, acrobatic, and commuter category airplanes. These design features include turbofan engines and engine location, for which the applicable regulations do not contain adequate or appropriate airworthiness standards. These proposed special conditions contain the additional airworthiness standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Comments must be received on or before July 24, 2006.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Regional Counsel, ACE–7, Attention: Rules Docket Clerk, Docket No. CE253, Room 506, 901 Locust, Kansas City, Missouri 64106. All comments must be marked: Docket No. CE253. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Peter L. Rouse, Aerospace Engineer, Standards Office (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, Room 301, 901 Locust

Street, Kansas City, Missouri 64106; telephone (816) 329–4135.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The proposals described in this notice may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include with those comments a self-addressed stamped postcard on which the following statement is made: "Comments to Docket No. CE253." The postcard will be date stamped and returned to the commenter.

Background

On January 28, 2004, Cessna Aircraft Company; One Cessna Boulevard; Post Office Box 7704; Wichita, KS 67277, made an application to the FAA for a new Type Certificate for the Cessna Model 510 Mustang. If approved, the Cessna 510 would be approved under TC No. A24CE. The Cessna Model 510 Mustang is an all new, high performance, low wing, aft fuselage mounted twin turbofan engine powered aircraft in the Normal Category including flight into known icing conditions and single pilot operations. The Model 510 is to use existing Cessna Citation construction materials and methods. The design criteria includes: 8,480 pounds maximum ramp weight, 8,395 pounds maximum takeoff weight, 250 KCAS/0.63 Mach VMO/MMO, and a 41,000 foot maximum altitude.

Type Certification Basis

Under the provisions of 14 CFR, part 21, § 21.17, Cessna Aircraft Company must show that the Cessna Model 510 Mustang meets the applicable provisions of 14 CFR, part 23, effective February 1, 1965, as amended by Amendments 23–1 through Amendment 23–54, effective September 14, 2000; 14 CFR, part 36, effective December 1, 1969, through the amendment effective on the date of type certification; 14 CFR, part 34; exemptions, if any; and the special conditions adopted by this rulemaking action.

Discussion

Special conditions, as appropriate, as defined in § 11.19, are issued in accordance with § 11.38, and become part of the type certification basis in accordance with § 21.17.

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

Novel or Unusual Design Features

The Cessna Model 510 Mustang will incorporate the following novel or unusual design features:

Engine Fire Extinguishing System

The Model 510 design includes engines mounted aft on the fuselage; therefore, early visual detection of engine fires is precluded. The applicable existing regulations do not require fire extinguishing systems for engines. Aft mounted engine installations were not envisaged in the development of part 23; therefore, special conditions for a fire extinguishing system with the applicable agents, containers, and materials for the engines of the Model 510 are appropriate.

Applicability

As discussed above, these special conditions are applicable to the Cessna Model 510. Should Cessna Aircraft Company apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane identified.

List of Subjects in 14 CFR Part 23

Aircraft; Aviation safety, Signs and symbols.

Citation

The authority citation for these Special Conditions is as follows:

Authority: 49 U.S.C. 106(g); 40113 and 44701; 14 CFR 21.16 and 21.17; and 14 CFR 11.38 and 11.19.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for the Cessna Model 510 airplane:

SC23.1195 Engine Fire Extinguishing System

(a) Fire extinguishing systems must be installed and compliance must be shown with the following:

(1) Except for combustor, turbine, and tailpipe sections of turbine-engine installations that contain lines or components carrying flammable fluids or gases for which a fire originating in these sections is shown to be controllable, a fire extinguisher system must serve each engine compartment.

(2) The fire extinguishing system, the quantity of the extinguishing agent, the rate of discharge, and the discharge distribution must be adequate to extinguish fires. An individual "one shot" system may be used.

(3) The fire extinguishing system for a nacelle must be able to simultaneously protect each compartment of the nacelle for which protection is provided.

(b) Fire extinguishing agents must meet the following requirements:

(1) Be capable of extinguishing flames emanating from any burning fluids or other combustible materials in the area protected by the fire extinguishing system; and

(2) Have thermal stability over the temperature range likely to be experienced in the compartment in which they are stored.

(3) If any toxic extinguishing agent is used, provisions must be made to prevent harmful concentrations of fluid or fluid vapors (from leakage during normal operation of the airplane or as a result of discharging the fire extinguisher on the ground or in flight) from entering any personnel compartment, even though a defect may exist in the extinguishing system. This must be shown by test except for built-in carbon dioxide fuselage compartment fire extinguishing systems for which:

(i) Five pounds or less of carbon dioxide will be discharged, under established fire control procedures, into any fuselage compartment; or

(ii) Protective breathing equipment is available for each flight crewmember on flight deck duty.

(c) Fire extinguishing agent containers must meet the following requirements:

(1) Each extinguishing agent container must have a pressure relief to prevent bursting of the container by excessive internal pressures.

(2) The discharge end of each discharge line from a pressure relief connection must be located so that discharge of the fire extinguishing agent would not damage the airplane. The line must also be located or protected to prevent clogging caused by ice or other foreign matter.

(3) A means must be provided for each fire extinguishing agent container to indicate that the container has discharged or that the charging pressure is below the established minimum necessary for proper functioning.

(4) The temperature of each container must be maintained, under intended operating conditions, to prevent the pressure in the container from falling below that necessary to provide an adequate rate of discharge, or rising high enough to cause premature discharge.

(5) If a pyrotechnic capsule is used to discharge the extinguishing agent, each container must be installed so that temperature conditions will not cause hazardous deterioration of the pyrotechnic capsule.

(d) Fire extinguisher system materials must meet the following requirements:

(1) No material in any fire extinguishing system may react chemically with any extinguishing agent so as to create a hazard.

(2) Each system component in an engine compartment must be fireproof.

Issued in Kansas City, Missouri on June 16, 2006.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–5636 Filed 6–22–06; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–8187–2]

RIN 2060–AN63

Regulation of Fuel and Fuel Additives: Reformulated Gasoline Requirements for Former Severe Nonattainment Areas Under the 1-Hour Ozone Standard That Were Redesignated to Attainment for the 1-Hour Standard Prior to Its Revocation, and Which Are Current Nonattainment Areas for the 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is seeking comment on two alternative proposals regarding reformulated gasoline requirements for an area formerly classified as a severe ozone nonattainment area under the 1-hour ozone national ambient air quality standard ("NAAQS" or "standard") that was redesignated to attainment for that standard before its revocation, and which is currently designated as nonattaiment for the 8-hour ozone standard. Under the first option, this area would be required to use federal reformulated gasoline (RFG) at least until it is redesignated to attainment for the 8-hr NAAQS. Under the second option, the State could request the removal of RFG, and EPA would grant such a request upon a demonstration that removal would not result in loss of any RFG-related emission reductions relied upon in the State's Implementation Plan (SIP) for ozone. Atlanta is the only area that falls within the scope of this proposal.

DATES: Comments: All public comments must be received on or before August 22, 2006. To request a public hearing, contact Kurt Gustafson at (202) 343–9219 or *gustafson.kurt@epa.gov*. If a hearing is requested no later than July 13, 2006, a hearing will be held at a time and place to be published in the **Federal Register**. Persons wishing to testify at a public hearing must contact Kurt Gustafson at (202) 343–9219, and submit copies of their testimony to the docket and to Kurt Gustafson at the addresses below, no later than 10 days prior to the hearing. After the hearing, the docket for this rulemaking will remain open for an additional 30 days to receive comments. If a hearing is held, EPA will publish a document in the **Federal Register** extending the comment period for 30 days after the hearing.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2006–0318, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- E-mail: *a-and-r-docket@epa.gov*.
- Fax: (202) 566–1741, Attention Docket ID No. OAR–EPA–HQ–OAR–2006–0318.
- Mail: Air Docket, Docket ID No. EPA–HQ–OAR–2006–0318, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- Hand Delivery: EPA Docket Center, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC, Attention Air Docket ID No. EPA–HQ–OAR–2006–0318, Such deliveries are 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–OAR–2006–0318. 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" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

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, 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 *http://www.regulations.gov* or in hard copy at the Air Docket, EPA/DC, EPA West, Room B102, 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 Air Docket is (202) 566–1742. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: For further information about this proposed rule, contact Kurt Gustafson, Environmental Scientist, Office of Transportation and Air Quality, Transportation and Regional Programs Division, mailcode 6406J, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–343–9219; fax number: 202–343–2800; e-mail address: *gustafson.kurt@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action may affect you if you produce, distribute, or sell gasoline for use in the Atlanta area.

The table below gives some examples of entities that may have to comply with the regulations. However, since these are only examples, you should carefully examine these and other existing regulations in 40 CFR part 80. If you have any questions, please call the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Category	NAICS codes [a]	SIC codes [b]	Examples of potentially regulated entities
Industry	324110	2911	Petroleum Refiners.
Industry	422710	5171	Gasoline Marketers and Distributors.
	422720	5172	
Industry	484220	4212	Gasoline Carriers.
	484230	4213	

[a] North American Industry Classification System (NAICS).
[b] Standard Industrial Classification (SIC) system code.

B. What Should I Consider as I Prepare My Comments for EPA?

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

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

i. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

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

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

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

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

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

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

3. *Docket Copying Costs.* You may be charged a reasonable fee for photocopying docket materials, as provided by 40 CFR part 2.

Outline of This Preamble

I. Background and Regulatory History

Today's proposal follows from previous EPA action in replacing the 1-hour ozone standard with a more protective 8-hour standard. 69 FR 23951 (April 30, 2004). EPA has to date issued two rules that clarify the extent to which Clean Air Act obligations that existed under the 1-hour ozone standard continue in effect under the 8-hour standard. These rules are the Phase 1 implementation rule, 69 FR 23951 (April 30, 2004), and the Phase 2 implementation rule. 70 FR 71612 (November 29, 2005). Although in the Phase 2 rule EPA addressed the requirements for the use of reformulated gasoline (RFG) in most parts of the country as a result of the transition to the 8-hour standard, EPA indicated that

it would address in a separate action what RFG requirements should apply to—a former severe nonattainment area under the 1-hour standard that was redesignated to attainment for the 1-hour standard before it was revoked, but after the area was designated nonattainment for the 8-hour standard.

In the Phase 1 rule, EPA addressed two interrelated key issues regarding the transition from the 1-hour ozone NAAQS to the 8-hour ozone NAAQS. First, at what time the 1-hour NAAQS would be revoked (i.e., no longer apply). Second, what protections would remain in place to ensure that, once the 1-hour NAAQS was revoked, air quality would not degrade and that progress toward attainment would continue as areas transition from implementing the 1-hour NAAQS to implementing the 8-hour NAAQS.

On the first issue, EPA decided that the 1-hour NAAQS would be revoked in full, including the associated designations and classifications, one year following the effective date of the designations for the 8-hour NAAQS. For most areas, which were designated effective June 15, 2004, that means the 1-hour NAAQS and the related designation and classification no longer applied as of June 15, 2005.

On the second issue, the anti-backsliding approach adopted in the Phase 1 rule established that all areas designated nonattainment for the 8-hour ozone NAAQS and designated nonattainment for the 1-hour ozone NAAQS at the time of designation for the 8-hour NAAQS remain subject to mandatory control measures that applied by virtue of the area's classification for the 1-hour NAAQS. These control measures are called "applicable requirements," and are primarily the control measures that areas were required to adopt and implement based on the area's 1-hour nonattainment classification.[1] Similarly, EPA concluded that areas designated nonattainment for the 8-hour ozone NAAQS and designated attainment subject to a Section 175A maintenance plan for the 1-hour ozone NAAQS at the time of designation for the 8-hour NAAQS remain subject to the applicable requirements. EPA provided that these areas must retain those control measures as part of the approved SIP, but need not reactivate those measures that the area may have shifted to a contingency measure prior to the time the area was designated for the 8-hour NAAQS.

In the June 2003 proposal for implementation of the 8-hour NAAQS, EPA defined the "applicable requirements" as those 1-hour control measures that applied in an area as of the effective date of the 8-hour designation for the area (for most areas, June 15, 2004). 68 FR 32821 (June 2, 2003). The draft regulatory text, issued in August 2003, relied instead on those control measures in place on the date of revocation of the 1-hour NAAQS (for most areas, June 15, 2005). In the final rule, EPA defined applicable requirements as those control measures in place as of the date of signature of the Phase 1 rule, (i.e., April 15, 2004). EPA thereafter issued a final rule changing this date to the effective date of the 8-hour designations—for most areas this would be June 15, 2004. 70 FR 71612 (November 29, 2005). Thus, in the Phase 1 rule, EPA adopted an anti-backsliding approach and established a trigger date for determining which 1-hour control requirements continued to apply in an area after revocation of the 1-hour NAAQS. Redesignation to attainment of the 1-hour NAAQS after this trigger date but prior to the revocation of the 1-hour NAAQS would not change which obligations remain applicable requirements.

In the Phase 2 Implementation Rule, EPA specified that the nine original mandatory RFG covered areas, as well as mandatory "bump up" areas (described in the "Background" section below) that would no longer be classified as severe based solely on the revocation of the 1-hour NAAQS, would remain covered areas at least until they are redesignated to attainment for the 8-hour NAAQS. EPA relied on an anti-backsliding approach similar to that relied upon in the Phase 1 rule. 69 FR 23857. (April 30, 2004). However, EPA did not address in that Phase 2 final rule whether RFG would continue to be required in bump-up areas that are designated nonattainment for the 8-hour NAAQS, but are no longer classified as severe based on a redesignation to attainment for the 1-hour NAAQS before revocation of the 1-hour NAAQS. EPA designated Atlanta as a marginal nonattainment area under the 8-hour ozone standard, 70 FR 34660 (June 15, 2005), and redesignated Atlanta from nonattainment to attainment for the 1-hour NAAQS, prior to revocation of the 1-hour NAAQS. 56 FR 56694 (November 6, 1991). Atlanta is the only covered area that falls within the scope of this proposal.

II. What Action Is EPA Taking?

In this proposal, EPA addresses the issue of whether an area originally designated as a severe ozone nonattainment area under the 1-hour standard as a result of failure to meet attainment deadlines, and which was then redesignated to attainment for the 1-hour standard prior to revocation of that standard, should remain an RFG covered area because it is designated as an ozone nonattainment area (marginal) for the 8-hour NAAQS. This involves interpretation of section 211(k)(10)(D) and consideration of the appropriate anti-backsliding approach under these circumstances.

Under section 211(k)(5), RFG is required in any "covered area." The term "covered area" is defined in section 211(k)(10)(D) as:

> [T]he 9 ozone nonattainment areas having a 1980 population in excess of 250,000 and having the highest ozone design value during the period 1987 through 1989 shall be "covered areas" for purposes of this subsection. Effective one year after the reclassification of any ozone nonattainment area as a severe ozone nonattainment area under section 181(b) of this title, such severe area shall also be a "covered area" for purposes of this subsection.

The second sentence of section 211(k)(10)(D) identifies areas that become covered areas because they have been reclassified as a severe area under CAA section 181(b). These are called "bump-up" areas. Five areas were reclassified to severe for the 1-hour NAAQS—Baton Rouge, Atlanta, Sacramento, San Joaquin Valley, and Washington, DC—(which was already an opt-in area). They became mandatory RFG covered areas one year after their reclassification as a severe area.

The areas that are RFG covered areas based on the bump-up provision were designated as ozone nonattainment areas by operation of law at the time of the 1990 CAA amendments, and their bump-up to severe occurred by operation of law based on EPA's determination under section 181(b) that the areas failed to attain the 1-hour NAAQS by the applicable attainment

[1] In the proposed Implementation rule, EPA identified Federal RFG as an applicable requirement. (*See proposed definition of "applicable requirement" in draft regulatory text, availability of which was announced at 68 FR 46536, August 6, 2003.*) In the final rule, however, EPA did not include RFG in the list of applicable requirements. EPA instead clarified that RFG is required under a Federal program, and thus differs significantly from the programs on the final list of applicable requirements, which are developed and adopted by States for inclusion in the state implementation plan (SIP). EPA recognized that various issues exist regarding the scope and applicability of the RFG program during and after implementation of the 8-hour ozone NAAQS that need further clarification. EPA stated that we were still considering how to treat RFG and that we would address these issues in an action separate from the Phase 1 rule. Thus, EPA did not include RFG in the list of applicable requirements in the Phase 1 Rule, and EPA made no decision at that time concerning RFG treatment in the transition to the 8-hour NAAQS.

date. Thus, their reclassification to severe was not based on a determination that their air quality met the severe area ozone design value. Instead, reclassification was based on their failure to meet the applicable attainment date. The bump-up to severe has two effects—a later attainment date is set for the area, and a variety of additional control measures become mandatory for the area. The federal RFG program becomes a mandatory control measure in an area one year after the area is bumped up to a severe classification.

EPA believes that section 211(k)(10)(D) is ambiguous on the issue of whether a bump-up area continues to be a covered area when it is no longer classified as severe. The text of the provision could be read to set the defining criteria as the occurrence of reclassification to severe, a historical fact that does not change based on subsequent changes in classification. It could also be read as identifying areas that are reclassified to severe, but as leaving unresolved what happens when they are no longer so classified. Given this ambiguity, EPA has discretion to determine whether bump-up areas should remain subject to the RFG program once they are no longer classified as severe and, if they may exit the program, to set appropriate criteria for doing so.

EPA has already exercised its discretion under 211(k)(10)(D) with respect to bump-up covered areas that are no longer classified as severe based solely on revocation of the 1-hour NAAQS, and has specified that they must continue to use RFG after revocation of the 1-hour NAAQS at least until they are redesignated to attainment for the 8-hour NAAQS. 70 FR 71612 (November 29, 2005). This applies to all bump-up RFG areas other than Atlanta. For those areas, any of the reasonable choices for a trigger date (e.g., date of issuance of 8-hour designations, effective date of 8-hour designations, or date of 1-hour NAAQS revocation) would all lead to continued use of RFG. On each of those dates, the areas were designated as severe 1-hour ozone nonattainment areas and RFG was a mandatory federal requirement. Use of any of these trigger dates would mean that subsequent removal of the severe classification based on revocation of the 1-hr NAAQS would not change the obligation to use RFG. For further discussion of this approach, see 70 FR 71612 (November 29, 2005).

Atlanta is unique among the bump-up areas in that it was redesignated to attainment for the 1-hour NAAQS prior to that standard's revocation. It has been designated nonattainment and classified as marginal for the 8-hour NAAQS. For Atlanta, the choice of a reasonable trigger date could make a difference in whether the requirement to use RFG would continue after revocation of the 1-hr NAAQS.

EPA invites comment on the factors it should consider in exercising its discretion with respect to specifying RFG requirements for Atlanta. In interpreting section 211(k)(10)(D) and determining the kind of antibacksliding approach, including trigger date, that is appropriate regarding the requirement to use Federal RFG in Atlanta, EPA believes that it is appropriate to focus it's consideration on: (1) Current 8-hour ozone designation, (2) the likely effect on ozone NAAQS attainment, and (3) the likely effect on the fuel infrastructure. EPA also believes it is appropriate to focus it's consideration on how these factors apply in Atlanta, as this proposed rule would determine the appropriate Federal RFG requirements for this one specific ozone nonattainment area, as compared to a general rule that is broadly applicable to many areas and many different types of control measures.

EPA is inviting comment on two options for this covered area. Under the first option, the area would be required to use RFG at least until it is redesignated to attainment for the 8-hour NAAQS. The anti-backsliding trigger date would be the same as that in the Phase 1 implementation rule—the effective date of the 8-hour NAAQS designations. On that date Atlanta was a severe area, and the requirement to use RFG was mandatory, starting January 1, 2005, based on the area's 1-hour nonattainment classification. The subsequent redesignation to attainment of the 1-hr NAAQS would not change the continuing obligation to use RFG after revocation of the 1-hr NAAQS.

This option would emphasize that the area is still an ozone nonattainment area notwithstanding its redesignation to attainment of the 1-hour NAAQS. Under the first option, EPA would exercise its discretion to require continued use of RFG in Atlanta, based on the area's continued status as an ozone nonattainment area under the 8-hour NAAQS. Atlanta would remain an RFG covered area at least until it is redesignated to attainment for the 8-hour NAAQS, along with the other bump-up areas addressed in the related RFG final rule. 70 FR 71612 (November 29, 2005). For further discussion of this approach, see 70 FR 71612 (November 29, 2005).

Under the second option, the trigger date for Atlanta would be the date of revocation of the 1-hour NAAQS. The use of this trigger date would mean that if RFG was a mandatory obligation on that date, then the obligation would continue after revocation of the 1-hour NAAQS. If RFG was not a mandatory obligation on that date then it would not continue after the date of revocation. Hence the primary issue under this option would be whether RFG should be considered a mandatory obligation as of the trigger date.

As noted above, section 211(k)(10)(D) and the Act are ambiguous on whether the obligation to use RFG would continue to apply as of this trigger date, since the prior redesignation to attainment for the 1-hour NAAQS means the area was no longer classified as a severe area as of that date. The issue is not whether a requirement that applied on the trigger date should continue to apply after revocation, but whether this specific federal requirement would or would not apply on the trigger date. To the extent this issue could be seen as overlapping with the more general issue of having an anti-backsliding approach, EPA believes the indicia of Congressional intent on how to resolve this issue under section 211(k)(10)(D) are ambiguous.

Under this second option, EPA would exercise its discretion and resolve the ambiguity by allowing the RFG requirement to stop for the Atlanta area, based on the removal of the severe classification upon redesignation to attainment for the 1-hour NAAQS. EPA would condition, this however, on the State requesting such removal of RFG and demonstrating that removal would not result in a loss of emissions reductions relied upon in the ozone state implementation plan ("SIP").

This second option would place somewhat more emphasis on flexibility for the State in determining whether this Federal ozone related control measure should apply in the area, for the following reasons. The only area to which this proposal would apply is Atlanta, which is currently implementing a state low sulfur, low RVP fuel control measure that has been approved into its SIP.[2] The removal of Atlanta as an RFG covered area would

[2] In an effort to limit the number of different types of state fuels required around the country and thus, increase fungibility of fuels, the Energy Policy Act of 2005 (EPAct), included a "boutique fuels" provision. The provision requires EPA to publish a list of the "total number of fuels" approved into SIPs as of September 1, 2004, and, importantly, limits EPA's future fuel approvals for a state to a fuel that is already in use in their Petroleum for Administration Defense District. The Georgia State fuel program was included on the list that EPA published for approval, 71 FR 32532, (June 6, 2006), and thus the Georgia fuel would not be limited by the EPAct boutique fuel listing provisions.

simplify the tasks confronting the fuel refining and distribution system, as new fuel that meets both the state fuel requirements and the Federal RFG requirements would not need to be produced and distributed.[3] This would directionally reduce the burden on a fuel infrastructure system that has been tasked to meet several new Federal fuel requirements adopted over the last few years. In addition, this option acknowledges the significant progress Atlanta has made in reducing ozone levels and attaining the 1-hour NAAQS, and the fact that Atlanta's significant progress in reducing ozone levels has occurred without the use of RFG. Because the option requires a demonstration that dropping the RFG requirement will not lead to a loss in emissions reductions relied upon in the SIP, this option should not adversely affect Atlanta's SIP planning for future attainment of the 8-hour standard.[4]

EPA believes it has discretion in choosing the appropriate trigger date for purposes of anti-backsliding. The use of the date of revocation of the 1-hr NAAQS as the trigger date under this option would not raise the SIP planning concerns that led to rejection of this as an appropriate trigger date for the Phase 1 rule. EPA rejected the date of revocation as a trigger date for the Phase 1 rule because it would interfere with SIP planning, especially for areas required to submit SIP plans by the date of revocation. 70 FR 5596 (February 3, 2005) Here, the date of revocation has already passed. In addition, Atlanta has demonstrated attainment of the 1-hour NAAQS without relying on the use of RFG and there are no indications that the second option would interfere with Atlanta's SIP planning for attainment of the 8-hour NAAQS.

III. Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, 58 FR 51,735 (October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

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

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

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

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

Pursuant to the terms of Executive Order 12866, OMB has notified EPA that it considers this a "significant regulatory action" within the meaning of the Executive Order. EPA has submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

B. Paperwork Reduction Act

This proposed rule would not add any new requirements involving the collection of information as defined by the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The Office of Management and Budget has approved the information collection requirements contained in the final RFG/antidumping rulemaking (see 59 FR 7716, February 16, 1994) and has assigned OMB control number 2060–0277 (EPA ICR No. 1951.08). If EPA finalizes the option that would require continued use of RFG in Atlanta, the rule would merely continue a pre-existing legal requirement, and would impose no new information collection requirements. If EPA finalizes the option of removing the RFG requirement for Atlanta, there would be a reduction in information collection requirements.

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. 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 are listed in 40 CFR part 9 and 48 CFR chapter 15.

C. Regulatory Flexibility Act

The *Regulatory Flexibility Act* (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business that has not more than 1,500 employees (13 CFR 121.201); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

Based on the definition of a small entity as outlined above, EPA has identified approximately 26 small entities that could potentially be impacted by this proposal. If EPA finalizes the option that would require continued use of RFG in Atlanta, the rule would merely continue a pre-existing legal requirement, and would impose no new costs. If EPA finalizes the option of removing the RFG requirement for Atlanta, this option would lead to a reduction in costs.

After considering the economic impacts of today's proposed rule on small entities, I hereby certify, that this action will not have a significant economic impact on a substantial number of small entities insofar as the proposed rule, when promulgated, will either continue an existing statutory requirement or will provide relief from the requirement. This proposed rule will not impose any additional requirements on small entities. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome

[3] Although the deadline has passed for Atlanta to have begun using RFG as a result of its redesignation to severe nonattainment for the 1-hour standard on September 26, 2003, 68 FR 55469 (September 26, 2003), that requirement has been stayed pending appeal of a district court decision affirming the RFG requirement in *State of Georgia v. Leavit*, No. 04–2778–CC (N.D. Ga., Atlanta Div.).

[4] If EPA selected this option for purposes of the final rule, and compliance with the conditions could be determined as of that date, then EPA could proceed to adopt a final rule that reflected these circumstances.

comments on issues related to such impacts.

D. Intergovernmental Relations

1. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

If finalized, this proposal would contain no new enforceable duty that may result in expenditures to entities of concern under UMRA of $100 million or more in one year. If EPA finalizes the option that would require continued use of RFG in Atlanta, the rule would merely continue a pre-existing legal requirement, and would impose no new costs. If EPA finalizes the option of removing the RFG requirement for Atlanta, this option would lead to a reduction in costs, and would not trigger UMRA requirements. Although EPA does not believe that UMRA imposes requirements for this rulemaking, EPA notes that the environmental and economic impacts of the RFG program were assessed in EPA's Regulatory Impact Analysis for the 1994 RFG rules.

2. Executive Order 13132 (Federalism)

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires us to develop an accountable process to ensure "meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

Under Section 6 of Executive Order 13132, we may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or we consult with state and local officials early in the process of developing the proposed regulation. We also may not issue a regulation that has federalism implications and that preempts state law, unless the Agency consults with state and local officials early in the process of developing the proposed regulation.

Section 4 of the Executive Order contains additional requirements for rules that preempt state or local law, even if those rules do not have federalism implications (i.e., the rules will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government). Those requirements include providing all affected state and local officials notice and an opportunity for appropriate participation in the development of the regulation. If the preemption is not based on express or implied statutory authority, we also must consult, to the extent practicable, with appropriate state and local officials regarding the conflict between state law and federally protected interests within the Agency's area of regulatory responsibility.

This proposed rule does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. One of the proposed options would only impose requirements on certain refiners and other entities in the gasoline distribution system, and not on States. The requirements of the proposed rule will be enforced by the federal government at the national level. Thus, the requirements of Section 6 of the Executive Order do not apply to this proposed rule.

3. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. The proposed rule does not create a mandate for any tribal government. The rule would not impose any enforceable duties on these entities. Rather, the rule would affect only those refiners, importers or blenders of gasoline that choose to produce or import RFG for sale in the nonattainment areas addressed in the proposed rule, and the gasoline distributors and retail stations in those areas. Thus, Executive Order 13175 does not apply to this proposed rule.

E. Executive Order 13045: Children's Health Protection

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be "economically significant" as defined under Executive

Order 12866, and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, section 5–501 of the Executive Order directs us to evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This proposed rule is not subject to the Executive Order because it is not an economically significant regulatory action as defined by Executive Order 12866. Furthermore, this proposed rule does not concern an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children.

F. Executive Order 13211: Energy Effects

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

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), section 12(d) of Public Law 104–113, directs us to use voluntary consensus standards in our regulatory activities unless it would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) developed or adopted by voluntary consensus standards bodies. The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards. This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

IV. Statutory Provisions and Legal Authority

Statutory authority for the fuel controls in today's proposed rule comes from CAA section 211(k) (42 U.S.C. 7545(k)), directing EPA to issue regulations regarding the use of reformulated gasoline, and section 211(c) of the CAA (42 U.S.C. 7545(c)), which allows us to regulate fuels that either contribute to air pollution which endangers public health or welfare or which impair emission control equipment.

List of Subjects in 40 CFR Part 80

Environmental protection, Fuel additives, Gasoline, Imports, Labeling, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: June 16, 2006.

Stephen L. Johnson,

Administrator.

[FR Doc. 06–5620 Filed 6–22–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–8186–4]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Brio Refining, Inc. Superfund Site from the National Priorities List.

SUMMARY: The United States Environmental Protection Agency (EPA) Region 6 is issuing a notice of intent to delete the Brio Refining, Inc. Superfund Site (Site), located in Friendswood, Texas, from the National Priorities List (NPL). The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Texas, through the Texas Commission on Environmental Quality (TCEQ), have determined that all appropriate response actions under CERCLA, other than operation and maintenance and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund. In the "Rules and Regulations" Section of today's **Federal Register**, we are publishing a direct final notice of deletion of the Brio Refining, Inc. Superfund Site without prior notice of intent to delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final deletion. If we receive no adverse comment(s) on this notice of intent to delete or the direct final notice of deletion, we will not take further action on this notice of intent to delete. If we receive adverse comment(s), we will withdraw the direct final notice of deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final deletion notice based on this notice of intent to delete. We will not institute a second comment period on this notice of intent to delete. Any parties interested in commenting must do so at this time. For additional information, see the direct final notice of deletion which is located in the Rules section of this **Federal Register**.

DATES: Comments concerning this Site must be received by July 24, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–1989–0008, by one of the following methods:

http://www.regulations.gov: Follow the on-line instructions for submitting comments.

E-mail: mail to *walters.donn@epa.gov.*

Fax: 214–665–6660.

Mail: Donn Walters, Community Outreach Team, U.S. EPA Region 6 (6SF–PO), 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–6483 or 1–800–533–3508.

Instructions: Direct your comments to Docket ID No. EPA–HQ–SFUND–1989–0008. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *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 e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of

special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the information repositories.

FOR FURTHER INFORMATION CONTACT: John C. Meyer, Remedial Project Manager (RPM), U.S. EPA Region 6 (6SF–LP), 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–6742 or 1–800–533–3508 (*meyer.john@epa.gov*).

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Notice of Deletion which is located in the Rules section of this **Federal Register**.

Information Repositories: Repositories have been established to provide detailed information concerning this decision at the following addresses: U.S. EPA Region 6 Library, 7th Floor, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733, (214) 665–6424, Monday through Friday 9 a.m. to 12 p.m. and 1 p.m. to 4 p.m.; San Jacinto College, South Campus Library, 13735 Beamer Road, Houston, Texas 77089, (281) 992–3416, Monday through Thursday 8 a.m. to 9 p.m.; Friday 8 a.m. to 3 p.m.; Saturday 10 a.m. to 1 p.m.; Texas Commission on Environmental Quality (TCEQ), Central File Room Customer Service Center, Building E, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239–2900, Monday through Friday 8 a.m. to 5 p.m.

List of Subjects in 40 CFR Part 300

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

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

Dated: May 25, 2006.

Richard E. Greene,

Regional Administrator, Region 6.

[FR Doc. 06–5569 Filed 6–22–06; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 060606149–6149–01; I.D. 052506A]

RIN 0648–AT95

Fisheries in the Western Pacific; Omnibus Amendment for the Bottomfish and Seamount Groundfish Fisheries, Crustacean Fisheries, and Precious Coral Fisheries of the Western Pacific Region

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would amend three fishery management plans to include fisheries and waters around the Commonwealth of the Northern Mariana Islands (CNMI) and Pacific Remote Island Areas (PRIA). These amendments affect United States domestic fisheries that offload or operate in Federal waters around the CNMI and the PRIA. These amendments would establish new permitting and reporting requirements for vessel operators targeting bottomfish species around the PRIA to improve understanding of the ecology of these species and the activities and harvests of the vessel operators that target them. They would also establish new permitting and reporting requirements for vessel operators targeting crustacean species and precious corals around the CNMI and PRIA.

DATES: Comments on the proposed rule must be received by August 7, 2006.

ADDRESSES: Comments on the proposed rule, identified by 0648–AT95, should be sent to any of the following addresses:

- E-mail: *AT95Omnibus@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier AAT95 Omnibus. Comments sent via e-mail, including all attachments, must not exceed a 5 megabyte file size.
- Federal e-Rulemaking portal: *www.regulations.gov*. Follow the instructions for submitting comments.
- Mail: William L. Robinson, Administrator, NMFS, Pacific Islands Region (PIR), 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814–4700.

Copies of the FMPs, Amendments, and Environmental Assessment (EA) may be obtained from Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council (WPFMC), 1164 Bishop Street, Suite 1400, Honolulu, HI 96813, or the Internet at *www.wpcouncil.org*.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to William L. Robinson (see **ADDRESSES**), or by e-mail to *David_Rostker@omb.eop.gov*, or fax to 202–395–7285.

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

SUPPLEMENTARY INFORMATION: The NMFS Pacific Islands region encompasses Federal waters, i.e., the U.S. Exclusive Economic Zone (EEZ), around the Territories of Guam and American Samoa, the State of Hawaii, the CNMI, and the PRIA. The EEZ extends from this inner boundary to 200 nautical miles (nm) offshore. The inner boundary of the EEZ is the seaward limit of each coastal state, commonwealth, territory and possession. The EEZ extends from this inner boundary to 200 nautical miles (nm) offshore. For the CNMI and PRIA, the inner boundary of the EEZ is extends to the shoreline, while for the seaward limits of Guam, American Samoa, and Hawaii, the inner boundary of the EEZ is extend to 3 nm from the shoreline.

The WPFMC has developed, and NMFS has approved and implemented, five fishery management plans that cover pelagic species, crustaceans, bottomfish and seamount groundfish, precious corals, and coral reef ecosystems fisheries. The Federal waters surrounding the CNMI are currently not included in the Fishery Management Plans for the Bottomfish, Crustaceans, or Precious Corals Fisheries of the Western Pacific Region (Bottomfish FMP), (Crustaceans FMP), and (Precious Corals FMP). Similarly, Federal waters surrounding the PRIA are not included in the Bottomfish or Crustaceans FMPs. Vessels have been known to fish for bottomfish and crustaceans in the Federal waters surrounding the CNMI and the PRIA, although on a small scale. While there are currently no known fisheries operating in the PRIA, and no precious corals fisheries operating in the CNMI, interest may arise in the future. These proposed amendments would include the fisheries operating in these areas under the FMPs.

The CNMI bottomfish fishery consists primarily of small boats (< 30 ft, 9.1 m) engaged in commercial and subsistence

fishing. These boats are usually limited to fishing in daylight hours within 50 nm of Saipan, with fishermen relying on land features for navigation (as opposed to GPS and fathometers). In addition to the small boats, a few larger vessels (> 50 ft, 15.2 m) sometimes participate in the fishery, ranging farther north on multi-day trips, and with more sophisticated navigation tools. Data about bottomfish landings from the larger vessels are collected only voluntarily, so the future reliability of data collection cannot be assured. Similarly, an offshore deep-water shrimp fishery at one time operated in the CNMI, but knowledge of the fishery and collection of data about the catch was not timely. Additionally, precious corals have been landed from Federal waters around the CNMI, with little or no information about the fishery collected. This history led the WPFMC to recommend the preliminary step of including CNMI waters under the Bottomfish, Crustaceans, and Precious Corals FMPs. This would facilitate further steps to monitor catches and, if needed in the future, to implement other management measures for these fisheries. While the EEZ around the CNMI extends from the shoreline to 200 nm, the WPFMC recommended deferring to the CNMI regulatory control for fishing toby by CNMI citizens, including fishery permitting and data collection, in waters 0 to 3 nm of the EEZ around CNMI. These FMP amendments do not, however, confer authority to the CNMI over EEZ resources.

Although no fishing is being conducted currently in the PRIA, there has been some recent historical activity by vessels using mixed fishing gear in the PRIA. These vessels have targeted bottomfish with handlines, and they troll for pelagic species, or trap for deep-water shrimp. A 2002 regulatory amendment to the Pelagics FMP (67 FR 30346, May 6, 2002) requires Federal reporting for vessels trolling for and landing pelagic management unit species (PMUS) in the PRIA. Data collection for other PRIA fisheries occurs at the landing port which, to date, has been exclusively in Hawaii. However, Hawaii's state-required landings data do not include details on effort, bycatch, location, or protected species interactions. There is currently no mechanism to gather fishery statistics for bottomfish landings from the PRIA. As in the case of the CNMI, the Council determined that the PRIA need to be included under its management plans to allow for the collection of fishery data and the timely implementation of further management actions should they become necessary.

The U.S. Fish and Wildlife Service (USFWS) manages a number of National Wildlife Refuges (NWR) in the western Pacific, including fishing activities within refuge boundaries pursuant to the National Wildlife Refuge System Administration Act (NWRSAA) of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997, and other authorities. Under the NWRSAA, as amended, NWR waters are closed to all uses until they are specifically opened for such uses, and that the USFWS determines whether to open NWR waters for any use that is compatible with the refuges'= primary purpose(s) and mission. While commercial fishing is generally prohibited in NWR waters, specific regulations are absent. Including NWR areas under the Bottomfish, Crustaceans, and Precious Corals FMPs, as proposed in these amendments, would add specific regulations to these areas. However, these regulations would not supersede any valid existing Federal regulations that are more restrictive to fishing operations.

Amendments 8, 12, and 6 also consider including in the management unit a variety of bottomfish and crustacean species that are currently or potentially targeted by fishermen. The importance of these species as a component of catches is known from both existing data collection programs and anecdotal information, and before Federal management measures can be applied to these species they must be included in the management unit. After consideration, the Council decided to designate 48 bottomfish species as part of the management unit. Subsequently, however, these 48 species were included in the management unit of the Fishery Management Plan for Coral Reef Ecosystems in the Western Pacific Region, developed by the WPFMC and implemented in 2004. Thus, this document does not include the designation of bottomfish species in the preferred alternative. The WPFMC did not designate the three crustacean species or species groups because they determined that these species groups Federal waters are not sufficiently harvested in Federal waters to warrant designation at this time. This action is designed to establish monitoring systems and management mechanisms to implement specific regulatory controls should the need arise; specific management measures (such as time and area closures, or effort and landing limits) are not included.

Classification

At this time, NMFS has not determined that the FMP amendments that this rule would implement are consistent with the national standards of the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

This rule would amend three fishery management plans to include fisheries and waters around the CNMI and PRIA in the management units. Amendment 8 to the Bottomfish FMP would establish new permitting and reporting requirements for vessel operators targeting bottomfish species around the PRIA in order to improve our understanding of the ecology of the species, and the activities and harvests of the vessel operators that target them. For the same reasons, Amendment 12 to the Crustaceans FMP would establish new permitting and reporting requirements for vessel operators targeting crustacean species around the CNMI or the PRIA, and Amendment 6 to the Precious Corals FMP would establish new permitting and reporting requirements for vessel operators targeting precious corals around the CNMI.

This action is anticipated to affect the entire universe of active bottomfish fishery participants (approximately 43) based in the CNMI who fish more than three miles from shore, as well as an unknown number of vessel operators who may enter the fishery in the future. The CNMI bottomfish fishery consists primarily of small boats (< 30 ft, 9.1 m) engaged in commercial and subsistence fishing. These boats are usually limited to fishing in daylight hours within 50 nm of Saipan, with fishermen relying on land features for navigation (as opposed to GPS and fathometers). In addition to the small boats, a few larger vessels (> 50 ft, 15.2 m) sometimes participate in the fishery, ranging farther north on multi-day trips, and with more sophisticated navigation tools. Data about bottomfish landings from the larger vessels are now collected only voluntarily. Given this fleet's aggregate annual ex-vessel revenue of $142,260, the annual average per-vessel revenue is $3,308; therefore, all affected operations are classified as "small entities" because their annual revenues are below the $4 million threshold set for this determination. The affected entities, CNMI bottomfish vessels, landed a total of 54,400 lb (24,675 kg) of fish in 2004.

Also affected will be future participants in the CNMI-based offshore crustacean and precious coral fisheries. Available

information indicates that there are no current participants in these fisheries and it is unlikely that an offshore commercial crustacean (i.e., lobster) fishery will develop, as the topography beyond three miles in most locations has limited lobster habitat and access is difficult. Should such a lobster fishery develop, however, the potential costs to fishermen would be minimal (i.e., no more than those associated with permitting and reporting, discussed below). Also affected would be future participants in the bottomfish and crustacean fisheries around the PRIA, but available information indicates that there are no current participants in these fisheries, either.

The largest potential impact to affected participants would be compliance costs associated with new Federal permitting and reporting requirements. There is no monetary cost for these permits, but a time burden of 30 minutes is required for each permit application and renewal. The completion of Federal reporting forms will be required for each fishing trip, with an associated time cost of 5 minutes per reporting action. Lesser and uUnquantifiable impacts may result from the future prohibition of the use of destructive fishing gear (e.g., bottom set trawls, poisons and explosives) in the current or future CNMI and PRIA bottomfish fisheries, and the future prohibition of the use of non-selective gear in any future NMI precious corals fishery. There is no evidence that such gears are in use at this time, so any futurethe prohibition against using such gear would have no immediate impact on current fishery participants.

Because there are no management actions that affect operations of the fishery, other than providing for potential data collection, there will be no significant reductions in profitability for a substantial number of small entities in any user groups, and there will be no disproportionate impacts between gear types, vessels, or port of landing.

The proposed rule does not impose impacts on a substantial number of small entities. The proposed action is administrative in nature and will not impact operations of the fishery. Most vessels in the CNMI fishery are small vessels that operate in nearshore areas, so the majority of small entities in the CNMI will be unaffected by the action. A very small proportion of larger vessels that may be impacted would be subject to the permit and reporting requirements of the action.

The CNMI fishery is characterized based on data collected through the Commercial Purchase Database, which indirectly records actual landings by recording all local fish sales to commercial establishments. This data collection program is dependeant on voluntary participation by first level purchasers of locally caught fresh fish to record purchases on specially designed invoices. These figures are then expanded by 30 percent to represent the CNMI as a whole, assuming 60 percent coverage of the commercial sales on Saipan, and that Saipan is 90 percent of the total market.

As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval. The public reporting burden for the permit application process is 30 minutes per application. In the crustaceans fishery, it is estimated that one permit application would be submitted annually for the permit area, resulting in a paperwork burden of 30 min/yr. In the bottomfish fishery, it is estimated that no more than five permit applications would be received annually for the permit area, resulting in a paperwork burden of 2.5 hr/yr. In the precious corals fishery, it is estimated that one permit would be applied for annually for the permit area, resulting in 30 min/yr in paperwork burden. Therefore, the total paperwork burden of these collections of information would be no more than four hours annually. The public burden for the proposed reporting requirements is five minutes per daily logsheet. It is estimated that eight vessels would be subject to the reporting requirement at any given time, and that each vessel would fish, on average, no more than 50 days/yr, resulting in a total paperwork burden of approximately 35 hr/yr. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to William L. Robinson (see **ADDRESSES**), and email to *David_Rostker@omb.eop.gov* or fax to 202–395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 665

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaii, Hawaiian natives, Northern Mariana Islands, Pacific Remote Island Areas, Reporting and recordkeeping requirements.

Dated: June 20, 2006.

James W. Balsiger,

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

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

PART 665—FISHERIES IN THE WESTERN PACIFIC

1. The authority citation for part 665 continues to read as follows:

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

In § 665.12, the definitions for "Crustaceans management area", "Crustaceans permit area 3", and "Crustaceans receiving vessel" are revised, the definitions of "Crustaceans permit area 4", "Pacific Remote Island Areas bottomfish fishing permit", and "Pacific Remote Island Areas crustacean fishing permit" are added, and under the definition of "Precious coral permit area" paragraph (4)(v) is added to read as follows:

§ 665.12 Definitions.

* * * * *

Crustaceans management area means the EEZ waters around American Samoa, the CNMI, Guam, Hawaii, and the PRIA.

* * * * *

Crustacean Permit Area 3 (Permit Area 3) means the EEZ around Guam and American Samoa, and the EEZ seaward of points 3 nautical miles from the shoreline of the CNMI.Crustaceans Permit Area 4 (Permit Area (4) means the EEZ around the PRIA, with the exception of EEZ waters around Midway Atoll.

* * * * *

Crustaceans receiving vessel means a vessel of the United States to which lobsters taken in the crustaceans management area are transferred from another vessel.

* * * * *

Pacific Remote Island Areas (PRIA) bottomfish fishing permit means the permit required by § 665.61 to use a vessel to fish for bottomfish management unit species (MUS) in the EEZ, or to land bottomfish MUS shoreward of the outer boundary of the EEZ around the PRIA, with the exception of waters around Midway Atoll.

Pacific Remote Island Areas (PRIA) crustacean fishing permit means the

permit required by § 665.41 to use a vessel to fish for crustacean management unit species (MUS) in the EEZ, or to land crustacean MUS shoreward of the outer boundary of the EEZ around the PRIA, with the exception of waters around Midway Atoll.

* * * * *

Precious coral permit area * * *

(4) * * *

(v) Permit Area X-P-CNMI includes all coral beds, other than established beds, conditional beds, or refugia, in the EEZ seaward of points 3 nautical miles from the shoreline of the CNMI.

* * * * *

3. In § 665.14, paragraph (a) is revised to read as follows:

§ 665.14 Reporting and recordkeeping.

(a) *Fishing record forms.* The operator of any fishing vessel subject to the requirements of §§ 665.21, 665.41, 665.81, or 665.602 must maintain on board the vessel an accurate and complete record of catch, effort, and other data on report forms provided by the Regional Administrator. All information specified on the forms must be recorded on the forms within 24 hr after the completion of each fishing day. Each form must be signed and dated by the fishing vessel operator. For the fisheries managed under §§ 665.21, 665.41, and 665.81, the original logbook form for each day of the fishing trip must be submitted to the Regional Administrator within 72 hr of each landing of MUS, unless the fishing was authorized under a PRIA troll and handline permit, a PRIA crustaceans fishing permit, or a PRIA precious corals fishing permit, in which case the original logbook form for each day of fishing within the PRIA EEZ waters must be submitted to the Regional Administrator within 30 days of each landing of MUS. For fisheries managed under § 665.602, the original logbook form for each day of the fishing trip must be submitted to the Regional Administrator within 30 days of each landing of MUS.

* * * * *

4. In § 665.41, paragraph (a)(2) is revised to read as follows:

§ 665.41 Permits.

(a) * * *

(2) The owner of any vessel used to fish for lobster in Permit Area 2, Permit Area 3, or Permit Area 4, must have a permit issued for that vessel.

* * * * *

5. In § 665.42, paragraph (c) is added to read as follows:

§ 665.42 Prohibitions.

* * * * *

(c) In Permit Area 3 and Permit Area 4, it is unlawful for any person to refuse to make available to an authorized officer or employee of NMFS designated by the Regional Administrator for inspection and copying any records that must be made available in accordance with § 665.14(f)(2).

6. In § 665.61, paragraph (a)(1) is revised to read as follows:

§ 665.61 Permits.

(a) * * *

(1) The owner of any vessel used to fish for bottomfish management unit species in the Northwestern Hawaiian Islands Subarea or Pacific Remote Island Areas Subarea must have a permit issued under this section and the permit must be registered for use with that vessel.

* * * * *

7. In § 665.62 paragraph (b) is revised, and paragraph (f) is added to read as follows:

§ 665.62 Prohibitions.

* * * * *

(b) Fish for, or retain on board a vessel, bottomfish management unit species in the Hoomalu Zone, the Mau Zone, or the Pacific Remote Island Areas without the appropriate permit registered for use with that vessel issued under § 665.13.

* * * * *

(f) Falsify or fail to make or file all reports of bottomfish management unit species landings taken in the Pacific Remote Island Areas, containing all data in the exact manner, as specified in § 665.14(a).

8. In § 665.69, paragraphs (a) introductory text, (b), and (c) are revised, and paragraphs (a)(6), (a)(7), and (a)(8) are added, to read as follows:

§ 665.69 Management subareas.

(a) The bottomfish fishery management area is divided into eight subareas with the following designations and boundaries:

* * * * *

(6) CNMI Inshore Area means that portion of the EEZ shoreward of 3 nautical miles of the shoreline of the CNMI.

(7) CNMI Offshore Area means that portion of the EEZ seaward of 3 nautical miles from the shoreline of the CNMI.

(8) Pacific Remote Island Areas means that portion of the EEZ seaward of the Pacific Remote Island Areas, with the exception of Midway Atoll.

(b) The inner boundary of each fishery management area is a line coterminous with the seaward boundaries of the State of Hawaii, the Territory of American Samoa, the Territory of Guam and the Commonwealth of the Northern Mariana Islands.

(c) The outer boundary of each fishery management area is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured, or is coterminous with adjacent international maritime boundaries. The boundary between the fishery management areas of Guam and the Northern Mariana IslandsCNMI extends to those points which are equidistant between Guam and the island of Rota in the CNMINorthern Mariana Islands.

[FR Doc. E6–9966 Filed 6–22–06; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 71, No. 121
Friday, June 23, 2006

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 19, 2006.

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) 720–8681.

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.

Grain Inspection, Packers and Stockyard Administration

Title: Swine Contract Library.

OMB Control Number: 0580–0021.

Summary of Collection: The Swine Packer Marketing Contracts, subtitle of the Livestock Mandatory Reporting Act of 1999, amended the Packers and Stockyards Act (P&S Act) to mandate the establishment of a library of swine packer marketing contracts (swine contract library), and a monthly report of types of contracts in existence and available and commitments under such contracts. The collection of information is necessary for the Grain Inspection, Packers and Stockyards Administration (GIPSA) to perform the functions required for the mandatory reporting of swine packer marketing contract information.

Need and Use of the Information: Information is required from packers for processing plants that meet certain criteria, including size as measured by annual slaughter. GIPSA is responsible for implementing and enforcing the P&S Act, including the swine contract library. The information collection and recordkeeping requirements for the swine contract library are essential for maintaining a mandatory library of information on contracts used by packers to purchase swine from producers and monthly reports of commitments under such contracts.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 32.

Frequency of Responses: Reporting: On occasion; Monthly.

Total Burden Hours: 899.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E6–9945 Filed 6–22–06; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 19, 2006.

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.

Forest Service

Title: Fee Envelope; Rules of Occupancy for Short-Term, Non-Commercial Use of Government Facilities.

OMB Control Number: 0596–0106.

Summary of Collection: The Federal Lands Recreation and Enhancement Act (16 U.S.C. 6801–6814) authorizes the Forest Service (FS) to collect recreation fees for use of government facilities and services. Every year millions of people visit National Forest System recreations sites. At some of these sites, the public is required to pay a fee to use the site. Fees are charged to help cover the costs of operating and maintaining fee sites,

areas, and facilities such as campgrounds. The Forest Service (FS) used the Recreation Fee Permit Envelope for collection of these fees. Two forms (FS 2300–26, Fee Envelopes and FS 2300–43, Permit for Short-Term, Non-commercial Use of Government-Owned Cabins and Lookouts) are used to collect information from visitors.

Need and Use of the Information: Personal information such as names, addresses, phone number, length of stay, amount paid, requested dates of occupancy, party size and vehicle registration are collected. FS will collect information from the forms to document when visitors pay a required recreation fee and to schedule requests for use and occupancy of government owned facilities.

Description of Respondents: Individuals or households.

Number of Respondents: 2,010,000.

Frequency of Responses: Reporting: Other (per visit).

Total Burden Hours: 105,500.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E6–9946 Filed 6–22–06; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2006–0014]

Notice of Request for Extension of a Currently Approved Information Collection (Exportation, Transportation, and Importation of Meat and Poultry Products)

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and the Office of Management and Budget (OMB) regulations, this notice announces the Food Safety and Inspection Service's (FSIS) intention to request an extension of a currently approved information collection regarding exportation, transportation, and importation of meat and poultry products.

DATES: Comments on this notice must be received on or before August 22, 2006.

ADDRESSES: FSIS invites interested persons to submit comments on this information collection request. Comments may be submitted by mail, including floppy disks or CD–ROMs, and hand-or courier-delivered items. Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 300 12th Street, SW., Room 102 Cotton Annex, Washington, DC 20250. All submissions received must include the Agency name and docket number FSIS–2006–0014.

All comments submitted in response to this notice, as well as research and background information used by FSIS in developing this document, will be available for public inspection in the FSIS Docket Room at the address listed above between 8:30 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The comments also will be posted on the Agency's Web site at *http://www.fsis.usda.gov/regulations_&_policies/2006_Notices_Index/index.asp.*

FOR FURTHER INFORMATION CONTACT: John O'Connell, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, USDA, 300 12th Street, SW., Room 112, Washington, DC 20250–3700, (202) 720–0345.

SUPPLEMENTARY INFORMATION:

Title: Exportation, Transportation, and Importation of Meat and Poultry Products.

OMB Number: 0583–0094.

Expiration Date of Approval: October 31, 2006.

Type of Request: Extension of a currently approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*). These statutes mandate that FSIS protect the public by ensuring that meat and poultry products are safe, wholesome, unadulterated, and properly labeled and packaged.

FSIS is requesting extension of an approved information collection addressing paperwork and recordkeeping requirements regarding the collection of information concerning the exportation, transportation, and importation of meat and poultry products. The Agency requires that meat and poultry establishments exporting product to foreign countries complete an export certificate. Establishments must supply the type, the amount, and the destination of product being exported. The form is necessary to certify to the importing countries that FSIS inspectors have inspected the product.

Meat and poultry products not bearing the mark of inspection and shipped from one official establishment to another must be transported under FSIS seal to prevent such unmarked product from entering commerce. To track product shipped under seal, FSIS requires shipping establishments to complete a form that identifies the type, amount, and weight of the product.

A foreign country exporting meat or poultry products to the U.S. must establish eligibility to import product into the U.S. and annually certify that its inspection system is equivalent to the U.S. inspection system. To maintain eligibility, a written report must be prepared monthly by a representative of the foreign inspection system for each establishment listed in the certification. Additionally, meat and poultry products intended for import into the U.S. must be accompanied by a health certificate, signed by an official of the foreign government, stating that the products have been produced by certified foreign establishments. Establishments or brokers wishing to import product into the United States must complete a form that specifies the type, amount, originating country, and destination of the product. The amount of meat and poultry product imported into the United States is included in FSIS' annual Report to Congress. Additionally, the Agency has established procedures allowing establishments importing product to stamp such product with the inspection legend before FSIS inspection, if they receive FSIS prior approval.

FSIS has made the following estimates based upon an information collection assessment:

Estimate of Burden: FSIS estimates that it will take respondents an average of 24 hours per annum to collect and submit this information to FSIS.

Respondents: Meat and poultry establishments, and importers and exporters.

Estimated No. of Respondents: 5,436.

Estimated No. of Annual Responses per Respondent: 294.

Estimated Total Annual Burden on Respondents: 127,838 hours.

Copies of this information collection assessment can be obtained from John O'Connell, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, USDA, 300 12th Street, SW., Room 112, Washington, DC 20250–3700, (202) 720–5627, (202) 720–0345.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS' functions, including whether the information will have practical utility; (b) the accuracy of FSIS' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility,

and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both John O'Connell, Paperwork Reduction Act Coordinator, at the address provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

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

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that the public and in particular minorities, women, and persons with disabilities, are aware of this notice, FSIS will announce it on-line through the FSIS Web page located at *http://www.fsis.usda.gov/regulations/2006_Notices_Index/index.asp.*

FSIS also will make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and other types of information that could affect or would be of interest to our constituents and stakeholders. The update is communicated via Listserv, a free e-mail subscription service consisting of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. The update also is available on the FSIS web page. Through Listserv and the web page, FSIS is able to provide information to a much broader, more diverse audience.

In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription/.* Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves and have the option to password protect their account.

Done at Washington, DC, on June 20, 2006.

Barbara J. Masters,

Administrator.

[FR Doc. E6–9947 Filed 6–22–06; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS 2006–0015]

Nominations for Membership on the National Advisory Committee on Microbiological Criteria for Foods

AGENCY: Food Safety and Inspection Service (FSIS), USDA.

ACTION: Notice.

SUMMARY: This notice announces that the U.S. Department of Agriculture (USDA) is soliciting nominations for membership on the National Advisory Committee on Microbiological Criteria for Foods (NACMCF). Nominations for membership are being sought from individuals with scientific expertise in the fields of epidemiology, food technology, microbiology (food, clinical, and predictive), risk assessment, infectious disease, biostatistics, and other related sciences. Persons from State and Federal governments, industry, consumer groups, and academia, as well as all other interested persons, are invited to submit nominations. Members who are not Federal government employees will be appointed to serve as non-compensated special government employees (SGEs). SGEs will be subject to appropriate conflict of interest statutes and standards of ethical conduct.

The nominee's typed resume or curriculum vitae must be limited to five one-sided pages and should include educational background, expertise, and a select list of publications. For submissions received that are more than five one-sided pages in length, only the first five pages will be considered.

DATES: The nominee's typed resume or curriculum vitae must be received by July 24, 2006.

ADDRESSES: Nominations should be sent to Ms. Karen Thomas, Advisory Committee Specialist, USDA, Food Safety and Inspection Service, Room 333 Aerospace Center, 1400 Independence Avenue, SW., Washington, DC 20250–3700.

FSIS invites interested persons to submit comments on this notice. Comments may be submitted by any of the following methods:

Federal eRulemaking Portal: This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov* and, in the "Search for Open Regulations" box, select "Food Safety and Inspection Service" from the agency drop-down menu, then click on "Submit." In the Docket ID column, select the FDMS Docket Number FSIS–2006–0015 to submit or view public comments and to view supporting and related materials available electronically.

Mail, including floppy disks or CD–ROM's, and hand- or courier-delivered items: Send to Docket Clerk, USDA, FSIS, FSIS Docket Room, 300 12th Street, SW., Room 102, Cotton Annex Building, Washington, DC 20250.

Electronic mail: *fsis.regulationscomments@fsis.usda.gov.*

All submissions received must include the Agency name and docket number FSIS–2006–0015.

All comments submitted in response to this notice, as well as research and background information used by FSIS in developing this document, will be posted to the regulations.gov Web site. The background information and comments also will be available for public inspection in the FSIS Docket Room at the address listed above between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Thomas, Advisory Committee Specialist, at the above address or by telephone at 202–690–6620 or by FAX at 202–690–6634.

SUPPLEMENTARY INFORMATION:

Background

The NACMCF was established in March 1988, in response to a recommendation in a 1985 report of the National Academy of Sciences Committee on Food Protection, Subcommittee on Microbiological Criteria, "An Evaluation of the Role of Microbiological Criteria for Foods." The current charter for the NACMCF and other information about the Committee are available for viewing on the NACMCF homepage at *http://www.fsis.usda.gov/About_FSIS/NACMCF/index.asp.*

The Committee provides scientific advice and recommendations to the Secretary of Agriculture and the Secretary of Health and Human Services concerning the development of microbiological criteria by which the safety and wholesomeness of food can be assessed. For example, the Committee assists in the development of criteria for microorganisms that indicate whether food has been processed using good manufacturing practices.

whether food has been processed using good manufacturing practices.

Appointments to the Committee will be made by the Secretary of Agriculture after consultation with the Secretary of Health and Human Services to ensure that recommendations made by the Committee take into account the needs of the diverse groups served by the Department. Membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

Given the complexity of issues, the full Committee expects to meet at least twice yearly, and the meetings will be announced in the **Federal Register**. The subcommittees will meet as deemed necessary by the chairperson and will be held as working group meetings in an open public forum. The subcommittee meetings will not be announced in the **Federal Register**. FSIS will announce the agenda and subcommittee working group meetings through the Constituent Update, available on-line at *http://www.fsis.usda.gov/News_&_Events/2006_Constituent_Update/index.asp*. NACMCF holds subcommittee working group meetings in order to accomplish the work of the NACMCF; all work accomplished by the subcommittees is reviewed and approved by the full Committee during a public meeting of the full Committee, as announced in the **Federal Register**. The subcommittee may invite technical experts to present information for consideration by the subcommittee. All data and records available to the full Committee are expected to be available to the public at the time the full Committee reviews and approves the work of the subcommittee.

Appointment to the Advisory Committee is for a two-year term, renewable for a total of three consecutive terms. Members are required to attend all meetings in-person as this is necessary for the functioning of this advisory committee. Members must be prepared to work outside of scheduled Committee and subcommittee meetings, and may be required to assist in document preparation. Committee members serve on a voluntary basis; however, travel reimbursement and per diem are available.

Regarding Nominees Who Are Selected

All nominees who are selected must submit a USDA Advisory Committee Membership Background Information form AD–755, available on-line at: *http://www.fsis.usda.gov/FSISForms/AD–755.pdf*.

As new appointees, SGEs must complete the Office of Government Ethics (OGE) 450 Confidential Financial Disclosure Report, before rendering any advice, or prior to their first meeting. All members will be reviewed for conflict of interest pursuant to 18 U.S.C. 208 in relation to specific NACMCF work charges. Financial disclosure updates will be required annually. Members must report any changes in financial holdings requiring additional disclosure. OGE 450 forms are available on-line at: *http://www.usoge.gov/pages/forms_pubs_otherdocs/fpo_files/forms/fr450fill_04.pdf*.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it on-line through the FSIS Web page located at *http://www.fsis.usda.gov/regulations/2006_Notices_Index/*. FSIS also will make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls and other types of information that could affect or would be of interest to constituents and stakeholders. The update is communicated via Listserv, a free electronic mail subscription service for industry, trade and farm groups, consumer interest groups, allied health professionals and other individuals who have asked to be included. The update is available on the FSIS Web page. Through the Listserv and Web page, FSIS is able to provide information to a much broader and more diverse audience. In addition, FSIS offers an e-mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription/*. Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves and have the option to password protect their account.

Done at Washington, DC, on: June 20, 2006.

Barbara J. Masters,

Administrator.

[FR Doc. E6–9949 Filed 6–22–06; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Klamath National Forest, California, Westpoint

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (the Westpoint Project) on a proposal to treat vegetation using a variety of silvicultural methods on approximately 930 acres of National Forest System lands in the Middle Creek and Scott Bar Mountain areas about 12 miles west of the town of Fort Jones, in Siskiyou County, California. Approximately five miles of classified roads are proposed for decommissioning. Approximately two miles of existing unclassified roads would be added to the transportation system. Activities would likely take place within five years of the decision.

DATES: Comments concerning the scope of the analysis should be received within 30 days of the publication of this notice in the **Federal Register**. The draft environmental impact statement is expected by November 2006, and the final environmental impact statement is expected by March 2007.

ADDRESSES: Send written comments to Ray Haupt, District Ranger, Scott River Ranger District, 11263 N. Highway 3, Fort Jones, CA 96032.

FOR FURTHER INFORMATION CONTACT: Bill Bailey, Timber Management Officer, at the above address or call (530) 463–5351.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The Westpoint Project analysis area of the Klamath National Forest consists of two separate areas covering approximately 10,900 acres. Both the Scott River and the Siskiyou County Highway 7F01 (Scott River Road) bisect the analysis area into eastern and western portions. The road and river, in this corridor, are used extensively by residents of the town of Scott Bar and private homeowners along the river. Forest recreation visitors use the road as access to Indian Scotty Campground, Jones Beach Day Use Area, and four trailheads into the Marble Mountain Wilderness.

Projects proposed for the entire project area are intended to protect and maintain three important landscape conditions: (1) Northern spotted owl habitat, (2) forest health, and community safety near homes, and (3)

old forest structure in the wilderness and late successional reserve. The biggest threat to these important landscape characteristics come from the declining health of the forested landscapes. This decline produces a greater risk from stand-replacing events associated with intense wildfire, insect epidemics, and disease.

The area proposed for treatment is adjacent to late successional reserves to the north and west, and near the Marble Mountain Wilderness area to the northwest. Threats to older forest structure and spotted owl habitat in the Late Successional Reserves and Wilderness, fish habitat in the river and streams, and community safety near homes come from the declining health of the surrounding forested landscapes. This decline produces a greater risk from stand-replacing events associated with intense wildfire, insect epidemics, and disease. The risk of rapid fire spread is generally uphill in this area due to the very steep river canyons. The most likely source of a human-caused ignition is along the river corridor, where homes, recreation, public utility corridors, and public transportation are concentrated at the bottom of this drainage.

Natural fire cycles have been prevented for 100 years in this area by fire suppression activities. Without the beneficial maintenance that these natural low intensity fires provide, actions such as stand-tending and prescribed fire are now needed as a fire replacement technique in the Westpoint Project area to minimize the chance of stand-replacing wildfires. Younger trees and brush, now predominant on this landscape, provide an abundant fuel source, and a "fuel ladder" by which a ground fire will climb into the tree canopy and kill large fire-resistant trees, and unnatural stand-replacing fire situation. These fire entrapment situations significantly increase the risk to both firefighters and the public.

The purpose or objective of taking action in the Westpoint Project area is:

- Improve forest health by returning the vegetation densities on this landscape to more natural historic levels, protect surrounding areas of older forest structure and owl habitat, build more fire resilience into this landscape, and provide wood and job opportunities for local communities through project activities.
- Reduce the occurrence or risk of stand-replacing wildfire.
- Protect public safety and homes by providing safe access for firefighters and the public.

Proposed Action

The Scott River District of the Klamath National Forest proposes that the Westpoint treats vegetation on approximately 930 acres in the general area of Middle Creek Watershed and Scott Bar Mountain about 12 miles west of the community of Fort Jones, California. The vegetation treatment would utilize a variety of silvicultural prescriptions. Tractor, cable, and helicopter logging methods would be used, with cable as the predominant method. Project-generated fuels would be treated through a combination of methods.

All Shasta red fir, white fir, and hemlock stumps would be hand treated with the fungicide Sporax® to reduce the spread of fungus *Heterobasidion annosum* (*Fomes annosus*).

Openings created from group selection and green tree retention prescriptions would be planted and baiting for pocket gophers. Baiting application method would consist of probing and/or spooning method of below-ground application of strychnine.

There would be no new classified road construction. Approximately five miles of classified roads are proposed for decommissioning in this project design. About two miles of new unclassified roads would be used, then closed and hydrologically restored. Around two miles of existing unclassified roads would be upgraded and added to the National Forest System road system. About 12 miles of road are proposed for maintenance level changes (seasonal road closures).

The legal description for the proposal is Township 44 North, Range 10 West, Section 6; Township 44 North, Range 11 West, Section 1–18, 21–26, and 27; Township 44 North, Range 12 West, Sections 1 and 12; Township 45 North, Range 11 West, Section 31; and Township 45 North, Range 12 West, Section 36, Mount Diablo Meridian. All activities would likely be completed within five years of the decision being made.

Nature of Decision To Be Made

The Forest Service must decide whether it will implement this project; implement an alternative that meets the purpose and need; or not implement any project at this time.

Responsible Official

Margaret Boland, Forest Supervisor, USDA Forest Service, 1312 Fairlane Road, Yreka, California 96097 is the Responsible Official.

Scoping Process

In the winter of 2002, scoping for an environmental assessment for a similar project in the same analysis area was initiated and included in the Klamath National Forest's Winter 2002 Schedule of Proposed Actions, which was posted on the Klamath National Forest's Internet Web site and mailed to interested parties. In March 2002, a scoping letter was sent to potentially affected individuals and anyone who expressed interest in the proposal. The original decision was invalidated by Judge Shubb in May 2005, with direction to proceed with an environmental impact statement. In the spring of 2006, scoping for this environmental impact statement was initiated and included in the Spring 2006 Schedule of Proposed Actions and posed on the Klamath National Forest's Internet Web site and mailed to interested parties. This project is similar to the previous proposal; however, suggestions from the public helped to define this proposal.

This Notice of Intent invites additional public comment on this proposal and initiated the preparation of the environmental impact statement. Due to the extensive scoping effects already conducted, no scoping meeting is planned. The public is encouraged to take part in the planning process and to visit with Forest Service officials at any time during the analysis and prior to the decision.

Comment Requested

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. While public participation in this analysis is welcome at any time, comments received within 30 days of the publication of this notice will be especially useful in the preparation of the draft environmental impact statement. The scoping process will include identifying potential issues, significant issues to be analyzed in depth, alternatives to the proposed action, and potential environmental effects of the proposal and alternatives.

Early Notice of Importance of Public Participation in Subsequent Environmental Review

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

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 in response to this scoping notice as well as comments received on the subsequent draft environmental impact statement, 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: June 6, 2006.

Margaret J. Boland,

Forest Supervisor, Klamath National Forest.

[FR Doc. 06–5628 Filed 6–22–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Ketchikan Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Ketchikan Resource Advisory Committee will meet in Ketchikan, Alaska, July 20, 2006 and August 24, 2006. The purpose of these meetings is to discuss potential projects under the Secure Rural Schools and Community Self-Determination Act of 2000.

DATES: The meetings will be held July 20, 2006 and August 24, 2006 at 6 p.m.

ADDRESSES: The meetings will be held at the Southeast Alaska Discovery Center Learning Center (back entrance), 50 Main Street, Ketchikan, Alaska. Send written comments to Ketchikan Resource Advisory Committee, c/o District Ranger, USDA Forest Service, 3031 Tongass Ave., Ketchikan, AK 99901, or electronically to *lkolund@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Lynn Kolund, District Ranger, Ketchikan-Misty Fiords Ranger District, Tongass National Forest, (907) 228–4100.

SUPPLEMENTARY INFORMATION: The meetings are open to the public. Committee discussion is limited to Forest Service staff and Committee members. However, public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: June 15, 2006.

Forrest Cole,

Forest Supervisor.

[FR Doc. 06–5614 Filed 6–22–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Resource Advisory Committee Meeting

AGENCY: Lassen Resource Advisory Committee, Susanville, California, USDA Forest Service.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committees Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Lassen National Forest's Lassen County Resource Advisory Committee will meet Thursday July 13th and Friday July 14th in Susanville, California for a business meeting. The meetings are open to the public.

SUPPLEMENTARY INFORMATION: The business meeting on July 13th and 14th will begin at 9 a.m., at the Lassen National Forest Headquarters Office, Caribou Conference Room, 2550 Riverside Drive, Susanville, CA 96130. This meeting will review June meeting minutes; progress updates on the following projects will be provided: Archery Children's Fuel Reduction; Gooch Valley and Beaver Creek Range Improvements; Bizz Johnson Trail Stabilization; Swain Mountain Trailhead; Diamond Mountain and Willard Creek Road enhancement projects. The remainder of the meeting will be set aside to review and listen to proposed projects for the final round of funding through the "Secure Rural Schools and Self Determination Act of 2000," commonly known as Payments to States. Time will also be set aside for public comments at the beginning of the meeting.

FOR FURTHER INFORMATION CONTACT: Robert Andrews, Designated Federal Official at (530) 257–4188; or Public Affairs Officer Heidi Perry at (530) 252–6604.

Laurie Tippin,

Forest Supervisor.

[FR Doc. 06–5616 Filed 6–22–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Resource Advisory Committee Meeting

AGENCY: Modoc Resource Advisory Committee, Alturas, California, USDA Forest Service.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committees Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Modoc National Forest's Modoc Resource Advisory Committee will meet Monday, August 7, 2006 and August 28, 2006 in Alturas, California for business meetings. The meetings are open to the public.

SUPPLEMENTARY INFORMATION: The business meeting August 7 begins at 6 p.m., at the Modoc National Forest Office, Conference Room, 800 West 12th St., Alturas. Agenda topics will include

existing and future projects that meet the intent of Public Law 106–393. Time will also be set aside for public comments at the beginning of the meeting.

The business meeting August 28 begins at 6 p.m.; at the Modoc National Forest Office, Conference Room, 800 West 12th St., Alturas. Agenda topics will include existing and future projects that meet the intent of Public Law 106–393. Time will also be set aside for public comments at the beginning of the meeting.

FOR FURTHER INFORMATION CONTACT: Stan Sylva, Forest Supervisor and Designated Federal Officer, at (530) 233–8700; or Public Affairs Officer Louis J Haynes at (530) 233–8846.

Stanley G. Sylva,

Forest Supervisor.

[FR Doc. E6–9877 Filed 6–22–06; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Modoc County Resource Advisory Committee Field Trip

AGENCY: Modoc Resource Advisory Committee, Alturas, California, USDA Forest Service.

ACTION: Notice.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committees Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393), the Modoc National Forest's Modoc County Resource Advisory Committee will go on a field trip Wednesday, July 12, on the Big Valley-Double Head District.

The Modoc County Resource Advisory Committee will meet on Wednesday, July 12, at the Forest Supervisors' Office in Alturas, California at 7:45 a.m. The field trip is open to the public.

SUPPLEMENTARY INFORMATION: The field trip will visit actual and proposed project sites on the Big Valley and Double Head Ranger Districts. The field trip will begin at the Modoc National Forest Office, Parking Area, 800 West 12th St., Alturas. A Trip Itinerary will be provided for those attending the field trip. Time will also be set aside for public comments while on the field trip.

FOR FURTHER INFORMATION CONTACT: Forest Supervisor Stan Sylva, at (530) 233–8700; or Public Affairs Officer Louis Haynes at (530) 233–8846.

Stanley G. Sylva,

Forest Supervisor.

[FR Doc. E6–9878 Filed 6–22–06; 8:45 am]

BILLING CODE 3410–11–P

ANTITRUST MODERNIZATION COMMISSION

Public Meeting

AGENCY: Antitrust Modernization Commission.

ACTION: Notice of public meeting.

SUMMARY: The Antitrust Modernization Commission will hold a public meeting on July 13, 2006. The purpose of the meeting is for the Antitrust Modernization Commission to deliberate on possible recommendations regarding the antitrust laws to Congress and the President.

DATES: July 13, 2006, 9:30 a.m. to approximately 5:30 p.m. Advanced registration is required.

ADDRESSES: Morgan Lewis, Main Conference Room, 1111 Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Andrew J. Heimert, Executive Director & General Counsel, Antitrust Modernization Commission: telephone: (202) 233–0701; e-mail: *info@amc.gov*. Mr. Heimert is also the Designated Federal Officer (DFO) for the Antitrust Modernization Commission.

For Registration: For building security purposes, advanced registration is required. If you wish to attend the Commission meeting, please provide your name by e-mail to *meetings@amc.gov* or by calling the Commission offices at (202) 233–0701. Please register by 12 noon on July 12, 2006.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is for the Antitrust Modernization Commission to deliberate on its report and/or recommendations to Congress and the President regarding the antitrust laws. The meeting will cover exclusionary conduct, regulated industries, the state action doctrine, and statutory immunities and exemptions. The Commission will conduct other additional business as necessary. Materials relating to the meeting will be made available on the Commission's Web site (*http://www.amc.gov*) in advance of the meeting.

The AMC has called this meeting pursuant to its authorizing statute and the Federal Advisory Committee Act. Antitrust Modernization Commission Act of 2002, Public Law No. 107–273, § 11054(f), 116 Stat. 1758, 1857; Federal Advisory Committee Act, 5 U.S.C. App., § 10(a)(2); 41 CFR 102–3.150 (2005).

Dated: June 19, 2006.

By direction of Deborah A. Garza, Chair of the Antitrust Modernization Commission.

Approved by Designated Federal Officer:

Andrew J. Heimert,

Executive Director & General Counsel, Antitrust Modernization Commission.

[FR Doc. E6–9931 Filed 6–22–06; 8:45 am]

BILLING CODE 6820–YH–P

ANTITRUST MODERNIZATION COMMISSION

Public Meeting

AGENCY: Antitrust Modernization Commission.

ACTION: Notice of public meeting.

SUMMARY: The Antitrust Modernization Commission will hold a public meeting on July 25 & 26, 2006. The purpose of the meeting is for the Antitrust Modernization Commission to deliberate on possible recommendations regarding the antitrust laws to Congress and the President.

DATES: July 25, 2006, 9:30 a.m. to approximately 5:30 p.m. July 26, 2006, 9:30 a.m. to approximately 5:30 p.m. Interested members of the public may attend. Advanced registration is required.

ADDRESSES: Morgan Lewis, Main Conference Room, 1111 Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Andrew J. Heimert, Executive Director & General Counsel, Antitrust Modernization Commission: telephone: (202) 233–0701; e-mail: *info@amc.gov*. Mr. Heimert is also the Designated Federal Officer (DFO) for the Antitrust Modernization Commission.

For Registration: For building security purposes, advanced registration is required. If you wish to attend the Commission meeting, please provide your name by e-mail to *meetings@amc.gov* or by calling the Commission offices at (202) 233–0701. Please register by 12 noon on July 24, 2006.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is for the Antitrust Modernization Commission to deliberate on its report and/or recommendations to Congress and the President regarding the antitrust laws. The meeting will consist of follow-up deliberations on criminal remedies, civil remedies, Federal enforcement

institutions, state enforcement institutions, international antitrust issues, merger enforcement, and patent reform. The Commission will conduct other additional business as necessary. Materials relating to the meeting will be made available on the Commission's Web site (*http://www.amc.gov*) in advance of the meeting.

The AMC has called this meeting pursuant to its authorizing statute and the Federal Advisory Committee Act. Antitrust Modernization Commission Act of 2002, Public Law No. 107–273, § 11054(f), 116 Stat. 1758, 1857; Federal Advisory Committee Act, 5 U.S.C. App., § 10(a)(2); 41 CFR 102–3.150 (2005).

Dated: June 19, 2006.

By direction of Deborah A. Garza, Chair of the Antitrust Modernization Commission.

Approved by Designated Federal Officer:

Andrew J. Heimert,

Executive Director & General Counsel, Antitrust Modernization Commission.

[FR Doc. E6–9932 Filed 6–22–06; 8:45 am]

BILLING CODE 6820–YH–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletion

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletion from Procurement List.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List a service previously furnished by such agencies.

DATES: *Effective Date:* July 23, 2006.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *SKennerly@jwod.gov*.

SUPPLEMENTARY INFORMATION:

Additions

On April 28, 2006, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (71 FR 25135) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.
2. The action will result in authorizing small entities to furnish the services to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following services are added to the Procurement List:

Services

Service Type/Location: Custodial Services, Dripping Springs, Aguirre Springs & Organ Mountain (Recreation Sites), Dripping Springs, New Mexico.
NPA: Tresco, Inc., Las Cruces, New Mexico.
Contracting Activity: Bureau of Land Management, Santa Fe, New Mexico.

Service Type/Location: Switchboard Operation, Carl Vinson VA Medical Center, 1826 Veterans Blvd, Dublin, Georgia.
NPA: Bobby Dodd Institute, Inc., Atlanta, Georgia.
Contracting Activity: VA Medical Center, Augusta, Georgia.

Deletion

On April 28, 2006, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (70 FR 25136) of proposed deletions to the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the service listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may result in additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action may result in authorizing small entities to furnish the service to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service deleted from the Procurement List.

End of Certification

Accordingly, the following service is deleted from the Procurement List:

Service

Service Type/Location: Repair & Clean Respirators, Robins Air Force Base, Robins AFB, Georgia.
NPA: Houston County Association for Exceptional Citizens, Inc., Warner Robins, Georgia.
Contracting Activity: Department of the Air Force.

G. John Heyer,

General Counsel.

[FR Doc. E6–9924 Filed 6–22–06; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must Be Received on or Before: July 23, 2006.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Sheryl D. Kennerly, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *SKennerly@jwod.gov*.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

If the Committee approves the proposed additions, the entities of the Federal Government identified in the notice for each product or service will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.
2. If approved, the action will result in authorizing small entities to furnish the services to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Services

Service Type/Location: Administrative Services, GSA, Federal Technology Service, Office of Service Delivery, 10300 Eaton Place, 5th Floor, Fairfax, Virginia.
NPA: ServiceSource, Inc., Alexandria, Virginia.
Contracting Activity: GSA, Federal Technology Service, Ft. Huachuca, Arizona.

Service Type/Location: Custodial Services, U.S Department of Agriculture, 6300 NW 36th Street, Miami, Florida.
NPA: Goodwill Industries of South Florida, Inc., Miami, Florida.
Contracting Activity: USDA, Animal & Plant Health Inspection Service–PFQ, Minneapolis, MN.

Service Type/Location: Laundry Service, USDA, National Animal Disease Center, 2300 Dayton Avenue, Ames, Iowa.
NPA: Genesis Development, Jefferson, Iowa.
Contracting Activity: USDA, Agriculture Research Service, Peoria, Illinois.

Service Type/Location: Linen Exchange and Laundry Service, 1st Medical Group Medical Treatment Facility (MTF). At the following locations at Langley AFB, Virginia: Main Facility—45 Pine Road, Dental Clinic—76 Nealy Avenue, Flight Medicine—Building 74, Physical Therapy—Building 267.
NPA: Louise W. Eggleston Center, Inc., Norfolk, Virginia.
Contracting Activity: 1st Contracting Squadron/LGCS, Langley AFB, Virginia.

G. John Heyer,
General Counsel.
[FR Doc. E6–9925 Filed 6–22–06; 8:45 am]
BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and opportunity for public comment.

Pursuant to section 251 of the Trade Act of 1974 (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. EDA has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE FOR THE PERIOD

[May 24, 2006 through June 16, 2006]

Firm	Address	Date petition accepted	Product
Janna Ugone Associates, Inc	1 Cottage Street, Easthampton, MA 01027.	5/31/06	Decorative custom lighting fixtures.
ZNYX Networks, Inc	48421 Milmont Drive, Fremont, CA 94538.	5/23/06	Data and voice network switches.
Trio Manufacturing Co	2 North Jackson Street, Forsyth, GA 31029.	5/31/06	Manufactures and distributes cotton yarn.
Automated Emblem Supplies, Inc	61 Green Street, Foxboro, MA 02035	6/1/06	Decorative lapel pins and key tags.
Architectural Stairways	1950 S. 4130 West, Salt Lake City, UT 84104.	6/6/06	Articles of wood.
St. George Crystal, Ltd	Brown Avenue, Jeannette, PA 15644	6/2/06	Lead crystal ware.
Maco Bag Corporation	412 Vanburen Street, Newark, NY 14513.	6/2/06	Heat sealable pouches, custom bags and contract packaging services.
Superior Woodcraft, Inc	160 North Hamilton Street, Doylestown, PA 18901.	6/2/06	Custom wood cabinets.
Sure Power, Inc	195 D Four Points Road, Jackson, GA 30233.	6/6/06	Alternators and starters for automobiles utilizing component parts.
Windham Millwork, Inc	4 Architectural Drive, Windham, ME 04062.	6/6/06	Custom commercial cabinetry and woodwork.
Nantucket Post Cap Company, Inc	44 Hull Street, Randolph, VT 05060	6/15/06	Wood post caps, arbors, finials, gates, fences.
Eversharp Tool, Inc	11350 E. 60th Place, Tulsa, OK 74146	6/15/06	Cutting tools.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Office of Chief Counsel, Room 7005, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. Please follow the procedures set forth in Section 315.9 of EDA's interim final rule (70 FR 47002) for procedures for requesting a public hearing. The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: June 16, 2006.

Barry Bird,

Chief Counsel.

[FR Doc. E6–9918 Filed 6–22–06; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 060606153–6153–01]

National Defense Stockpile Market Impact Committee Request for Public Comments on the Potential Market Impact of Increasing the Proposed Fiscal Year 2007 Disposal Level for Tantalum Carbide Powder

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice of inquiry.

SUMMARY: This notice is to advise the public that the National Defense Stockpile Market Impact Committee, co-chaired by the Departments of Commerce and State, is seeking public comments on the potential market impact of increasing the National Defense Stockpile's proposed Fiscal Year 2007 Annual Materials Plan disposal level for tantalum carbide powder.

DATES: To be considered, written comments must be received by July 24, 2006.

ADDRESSES: Address all comments concerning this notice to Michael Vaccaro, U.S. Department of Commerce, Bureau of Industry and Security, Office of Strategic Industries and Economic Security, 1401 Constitution Avenue, NW., Room 3876, Washington, DC 20230, fax: (202) 482–5650 (Attn: Michael Vaccaro), e-mail: *MIC@bis.doc.gov;* or Stanley Specht, U.S. Department of State, Bureau of Economic and Business Affairs, Office of International Energy and Commodity Policy, Washington, DC 20520, fax: (202) 647–8758 (Attn: Stanley Specht), or e-mail: *spechtsh@state.gov.*

FOR FURTHER INFORMATION CONTACT: Eddy Aparicio, Office of Strategic Industries and Economic Security, Bureau of Industry and Security, U.S. Department of Commerce, Telephone: (202) 482–8234.

SUPPLEMENTARY INFORMATION:

Background

Under the authority of the Strategic and Critical Materials Stock Piling Act of 1979, as amended (50 U.S.C. 98, *et seq.*), the Department of Defense (DOD), as National Defense Stockpile Manager, maintains a stockpile of strategic and critical materials to supply the military, industrial, and essential civilian needs of the United States for national defense. Section 3314 of the Fiscal Year (FY) 1993 National Defense Authorization Act (NDAA) (50 U.S.C. 98h–1) formally established a Market Impact Committee (the Committee) to "advise the National Defense Stockpile Manager on the projected domestic and foreign economic effects of all acquisitions and disposals of materials from the stockpile * * *." The Committee must also balance market impact concerns with the statutory requirement to protect the Government against avoidable loss.

The Committee is comprised of representatives from the Departments of Commerce, State, Agriculture, Defense, Energy, Interior, the Treasury, and Homeland Security, and is co-chaired by the Departments of Commerce and State. The FY 1993 NDAA directs the Committee to consult with industry representatives that produce, process, or consume the materials contained in the stockpile.

The Committee is seeking public comments on the potential market impact of increasing the National Defense Stockpile's proposed Fiscal Year 2007 Annual Materials Plan disposal level for tantalum carbide powder from 4,000 pounds to 13,000 pounds. Public comments are an important element of the Committee's market impact review process.

The quantity listed for tantalum carbide powder is not a disposal or sales target quantity, but rather a statement of the proposed maximum disposal quantity of the material that may be sold in a particular fiscal year by the DNSC. The quantity of the material that will actually be offered for sale will depend on the market for the material at the time of the offering as well as on the quantity of the material approved for disposal by Congress.

Submission of Comments

The Committee requests that interested parties provide written comments, supporting data and documentation, and any other relevant information on the potential market impact of the sale of this material. All comments must be submitted to the address indicated in this notice. All comments submitted through e-mail must include the phrase "Market Impact Committee Notice of Inquiry" in the subject line.

The Committee encourages interested persons who wish to comment to do so at the earliest possible time. The period for submission of comments will close on July 24, 2006. The Committee will consider all comments received before the close of the comment period. Comments received after the end of the comment period will be considered, if possible, but their consideration cannot be assured.

Anyone submitting business confidential information should clearly identify the business confidential portion of the submission and also provide a non-confidential submission that can be placed in the public record. The Committee will seek to protect such information to the extent permitted by law. All comments submitted in response to this notice will be made a matter of public record and will be available for public inspection and copying.

The Office of Administration, Bureau of Industry and Security, U.S. Department of Commerce, displays public comments on the BIS Freedom of Information Act (FOIA) Web site at *http://www.bis.doc.gov/foia.* This office does not maintain a separate public inspection facility. If you have technical difficulties accessing this Web site, please call BIS's Office of Administration at (202) 482–1900 for assistance.

Dated: June 15, 2006.

Eileen Albanese,

Director, Office of Exporter Services.

[FR Doc. E6–9942 Filed 6–22–06; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–867]

Metal Calendar Slides from Japan: Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances

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

SUMMARY: We determine that metal calendar slides (MCS) from Japan are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are shown in the "Final Determination" section of this notice." Moreover, we determine that critical circumstances do not exist with regard to certain exports of subject merchandise from Japan. *See* the "Critical Circumstances" section below.

EFFECTIVE DATE: June 23, 2006.

FOR FURTHER INFORMATION CONTACT: Dara Iserson or Scott Lindsay, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482–4052 and (202) 482–0780, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 25, 2006, the Department of Commerce (the Department) issued its preliminary determination of sales at LTFV of MCS from Japan. *See Preliminary Determination of Sales at Less Than Fair Value: Metal Calendar Slides from Japan*, 71 FR 5244 (February 1, 2006) (*Preliminary Determination*). In the *Preliminary Determination*, the Department stated that it would issue its preliminary finding with respect to Stuebing Automatic Machine Company's (Petitioner) critical circumstances allegation within 30 days. On February 21, 2006, the Department issued its negative preliminary determination regarding critical circumstances in this investigation. *See Preliminary Negative Determination of Critical Circumstances: Metal Calendar Slides from Japan*, 71 FR 9779 (February 27, 2006). In response to our January 13, 2006 supplemental questionnaire, Nishiyama Kinzoku Co., Ltd. (Respondent) submitted, on January 27, 2006, revised versions of its cost of production and constructed value databases that included production information regarding its MCS sales during the period of investigation (POI).

On February 1, 2006, Respondent filed, pursuant to section 351.224(c)(2) of the Department's regulations, a timely allegation that the Department made ministerial errors in the *Preliminary Determination*. Petitioner neither alleged any ministerial errors nor filed response comments. On February 24, 2006, the Department issued a memorandum stating that, because the errors were not significant pursuant to sections 351.224(c) and (g) of the Department's regulations, it would not correct the ministerial errors until the final determination. *See Memorandum from the Team, to Barbara E. Tillman, Director for Office of AD/CVD Enforcement 6, "Allegations of Ministerial Errors in the Preliminary Determination," (Ministerial Error Memorandum)*.

On February 13, 2006, Respondent requested that the Department postpone the final determination and extend provisional measures in this investigation. We postponed the final determination to June 16, 2006, under section 735(a)(2)(A) of the Act and section 351.210(b)(2)(ii) of Department's regulations. *See Notice of Postponement of Final Determination and Extension of Provisional Measures in the Antidumping Duty Investigation of Metal Calendar Slides from Japan*, 71 FR 13091 (March 14, 2006).

The Department conducted sales and cost verifications from February 13, 2006 through February 17, 2006, and from February 20, 2006 through February 24, 2006, respectively. *See Verification of the Sales Response of Nishiyama Kinzoku Co., Ltd. in the Antidumping Duty Investigation of Metal Calendar Slides from Japan, (March 24, 2006) (Sales Verification Report); and Verification of the Cost of Production and Constructed Value Date Submitted by Nishiyama Kinzoku Co., Ltd. in the Antidumping Duty Investigation of Metal Calendar Slides from Japan*, (April 14, 2006) (*Cost Verification Report*).

On April 6, 2006, the Department met with Petitioner on model matching issues. *See Memorandum from Dara Iserson to the File Antidumping Duty Investigation of Calendar Metal Slides from Japan*, dated April 6, 2006. On April 18, 2006, Petitioner submitted comments regarding modification of the model matching criteria. On April 26, 2006, we received rebuttal comments from Respondent regarding this issue. On May 1, 2006, Petitioner and Respondent filed their case briefs. On May 8, 2006, the Department received a rebuttal brief from Respondent. Petitioner did not submit a rebuttal brief. On May 25, 2006, Respondent submitted a database containing the reallocated home market bank charges, as they had been reported in its February 10, 2006, response.

Period of Investigation

The POI is April 1, 2004, through March 31, 2005.

Scope of Investigation

For the purpose of this investigation, the products covered are metal calendar slides (MCS). The products covered in this investigation are "V" and/or "U" shaped MCS manufactured from cold–rolled steel sheets, whether or not left in black form, tin plated or finished as tin free steel (TFS), typically with a thickness from 0.19 mm to 0.23 mm, typically in lengths from 152 mm to 915 mm, typically in widths from 12 mm to 29 mm when the slide is lying flat and before the angle is pressed into the slide (although they are not typically shipped in this "flat" form), that are typically either primed to protect the outside of the slide against oxidization or coated with a colored enamel or lacquer for decorative purposes, whether or not stacked, and excluding paper and plastic slides. MCS are typically provided with either a plastic attached hanger or eyelet to hang and bind calendars, posters, maps or charts, or the hanger can be stamped from the metal body of the slide itself. These MCS are believed to be classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 7326.90.1000 (Other articles of iron and steel: Forged or stamped; but not further worked: Other: Of tinplate). This HTSUS number is provided for convenience and U.S. Customs and Border Protection (CBP) purposes. The written description of the scope of this investigation is dispositive.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by Respondent for use in this final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by Respondent. *See Sales Verification Report* and *Cost Verification Report*.

Critical Circumstances

On February 21, 2006, we issued our preliminary finding that critical circumstances did not exist for Respondent. *See Notice of Preliminary*

Negative Determination of Critical Circumstances: Metal Calendar Slides From Japan (February 27, 2006). We received comments on our critical circumstances determination from Petitioner and Respondent. *See Memorandum from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, "Metal Calendar Slides from Japan: Final Determination of Sales at Less–than-Fair Value" (Issues and Decisions Memorandum)*, dated concurrently with this notice.

Section 735(a)(3) of the Act provides that the Department will determine that critical circumstances exist if: (A)(i) There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise; or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there would to be material injury by reason of such sales; and (B) there have been massive imports of the subject merchandise over a relatively short period.

We determine that critical circumstances do not exist for imports of subject merchandise because, there is no history of dumping of this product in the United States or elsewhere (See memorandum to the file dated June 16, 2006); and the calculated final margin for Nishiyama's EP sales and for "all other" exporters is less than the 25 percent knowledge threshold. Therefore, we determine that critical circumstances do not exist for imports of subject merchandise because, as required section 735(a)(3)(A) of the Act, there is no evidence that importers knew, or should have known, that the exporter was selling subject merchandise at LTFV.

Analysis of Comments Received

All issues raised in the comments submitted by interested parties are listed in the Appendix to this notice and are addressed in the *Issues and Decisions Memorandum*, which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation in this public memorandum, which is on file in the Central Records Unit, B–099 of the main Commerce Building. In addition, a complete version of the *Issues and Decisions Memorandum* can be accessed directly on the Internet at: http://ia.ita.doc.gov/frn/. The paper copy and the electronic version of the *Issues and Decisions Memorandum* are identical in content.

Changes Since the Preliminary Determination

Based on our findings at verification and on our analysis of the comments received, we have made certain adjustments to the margin calculations used in the *Preliminary Determination*. These adjustments are discussed in detail in several memoranda. *See* Memorandum From Scott Lindsay, Senior Analyst, AD/CVD Operations, Office 6 and Dara Iserson, Analyst, AD/CVD Operations, Office 6 through: Thomas Gilgunn, Program Manager, AD/CVD Operations, Office 6 to the File, "*Final Analysis Memorandum for Metal Calendar Slides from Japan: Nishiyama Kinzoku Co., Ltd.*" (June 16, 2006) (*Final Calculation Memorandum*); Memorandum from Ernest Z. Gziryan, Senior Accountant, through Taija A. Slaughter, Program Manager, to Neal M. Halper, Director, Office of Accounting, "*Cost of Production and Constructed Value Calculation Adjustments for the Final Determination - Nishiyama Kinzoku Co., Ltd.*" (June 16, 2006) (*Cost Calculation Memorandum*); and *Issues and Decisions Memorandum*.

Final Determination

We determine that the following weighted–average dumping margins exist for the period April 1, 2004, through March 31, 2005:

Manufacturer/Exporter	Weighted–Average Margin (Percent)
Nishiyama Kinzoku Co., Ltd.	3.02%
All Others	3.02%

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of MCS from Japan that are entered, or withdrawn from warehouse, for consumption on or after February 1, 2006, the date of publication of the *Preliminary Determination* in the **Federal Register**. We will instruct CBP to continue to require, for each entry, a cash deposit or the posting of a bond equal to the weighted–average dumping margins indicated above. These instructions suspending liquidation will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the U.S. International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports materially injure, or threaten material injury to, an industry in the United States, pursuant to section 735(b)(2)(B) of the Act. If the ITC determines that material injury, or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 351.305(a)(3) of the Department's regulations. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: June 16, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix

List of Issues Covered in the Issues and Decisions Memorandum

Comment 1: Changing Model Matching Criteria and Opportunity to Comment
Comment 2: Analysis of Model Matching Criteria
Comment 3: Average Sales Periods
Comment 4: Date of Sale
Comment 5: Post–Sale Price Adjustments
Comment 6: Critical Circumstances
Comment 7: Inventory Carry Costs
Comment 8: Adjustment to Cost of Sales Denominator for Overvaluation of Material Cost
Comment 9: Adjustment to Total Costs for Unreconciled Difference
Comment 10: Adjustment to Cost of Sales Denominator for Purchased Goods
Comment 11: Miscellaneous Losses

Comment 12: Adjustment to Steel Costs

[FR Doc. E6–9965 Filed 6–22–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Hydrographic Services Review Panel membership Solicitation

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

ACTION: Notice of membership solicitation for Hydrographic Services Review panel (HSRP); supplementary information.

SUMMARY: This notice is to solicit candidates needed to replace voting members of the HSRP for the remainder of calendar year 2006, and supplements a notice published on January 12, 2006, to obtain candidates to replace five of the voting members of the HSRP whose appointments expire in 2006. Individuals who have submitted resumes in response to the January 12, 2006, notice do not need to submit resumes again. Individuals who have not submitted resumes in response to the January 12, 2006, notice may submit resumes at any time during the calendar year. Decisions on HSRP membership can be made at any time during the calendar year, and resumes will not be considered unless they are received ten days before each decision date.

The Hydrographic Services Improvement Act Amendments of 2002, Public Law 107–372, requires the Under Secretary of Commerce for Oceans and Atmosphere to solicit nominations for membership on the HSRP. The HSRP advises the Under Secretary on matters related to section 303 of the Hydrographic Services Improvement Act of 1998, (the Act) and other appropriate matters the Under Secretary refers to the HSRP for review and advice.

DATES: Resumes should be sent to the address, e-mail, or fax specified and may be submitted at any time during the calendar year.

ADDRESSES: Director, Office of Coast survey, National Ocean Service, NOAA (N/CS), 1315 East West Highway, Silver Spring, MD 20910, fax: 301–713–4019, e-mail: *Hydroservices.panel@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Captain Steven Barnum, Director, Office of Coast Survey, NOS/NOAA, 301–713–2770 x134, fax 301–713–4019, e-mail: *steven.barnum@noaa.gov.*

SUPPLEMENTARY INFORMATION: Under 33 U.S.C. 883a, *et seq.*, NOAA's National Ocean Service (NOS) is responsible for providing nautical charts and related information for safe navigation. NOS collects and compiles hydrographic, tidal and current, geodetic, and a variety of other data in order to fulfill this responsibility. The HSRP provides advice on topics such as "NOAA's Hydrographic Survey Priorities," technologies relating to operations, research and development, and dissemination of data pertaining to:

(a) Hydrographic surveying;
(b) Nautical charting;
(c) Water level measurements;
(d) Current measurements;
(e) Geodetic measurements; and
(f) Geospaital measurements.

The HSRP comprises fifteen voting members appointed by the Under Secretary in accordance with Section 105 of the Act. Members are selected on a standardized basis, in accordance with applicable Department of Commerce guidance. The voting members of the HSRP are individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more disciplines relating to hydropgraphic surveying, tides, currents, geodetic and geospatial measurements, marine transportation, port administration, vessel pilotage, and coastal and fishery management. An individual may not be appointed as a voting member of the HSRP if the individual is a full-time officer or employee of the United States. Any voting member of the HSRP who is an applicant for, or beneficiary of, (as determined by the Under Secretary) any assistance under the Act shall disclose to the HSRP that relationship, and may not vote on any matter pertaining to that assistance.

Voting members of the HSRP serve for a term of four years. Members serve at the discretion of the Under Secretary and are subject to government ethics standards. Any individual appointed to a partial or full term may be reappointed for one additional full term. A voting member may serve until his or her successor has taken office. The HSRP selects one voting member to serve as the Chair and another to serve as the Vice Chair. The Vice Chair acts as Chair in the absence or incapacity of the Chair but will not automatically become the Chair if the Chair resigns.

At the minimum, meetings occur biannually, and at the call of the Chair or upon the request of a majority of the voting members or of the Under Secretary. Voting members receive compensation at a rate established by the Under Secretary, not to exceed the maximum daily rate payable under section 5376 of title 5, United States Code, when actually engaged in the performance of duties for such Panel and shall be reimbursed for actual and reasonable expenses incurred in the performance of such duties.

Dated: June 16, 2006.

Steven Barnum,

NOAA, Director, Office of Coast Survey, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 06–5633 Filed 6–22–06; 8:45 am]

BILLING CODE 3510–JE–M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–T–2006–0013]

Request for Comments on Removal of Paper Search Collection of Marks That Include Design Elements

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office ("USPTO") requests comments on a modified plan to remove the paper search collection of marks that include design elements from the USPTO's Trademark Search Facility and replace them with electronic documents. The USPTO has determined that the paper search collection is no longer necessary due to the availability and reliability of the USPTO's electronic search system.

DATES: Comments must be received by August 22, 2006 to ensure consideration. No public hearing will be held.

ADDRESSES: The Office prefers that comments be submitted by electronic mail message to *TMSearchComments@uspto.gov.* Written comments may also be submitted by mail to the Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313–1451, attention Mary Hannon; by hand delivery to the Trademark Assistance Center, Concourse Level, James Madison Building, East Wing, 600 Dulany Street, Alexandria, Virginia, marked to the attention of Mary Hannon; or by electronic mail message via the Federal eRulemaking Portal. See the Federal eRulemaking Portal Web site (*http://www.regulations.gov*) for additional instructions on providing comments via the Federal eRulemaking Portal.

The comments will be available for public inspection on the Office's Web site at *http://www.uspto.gov* and in the Office of the Commissioner for

Trademarks, Madison East, Tenth Floor, 600 Dulany Street, Alexandria, Virginia.

FOR FURTHER INFORMATION CONTACT: Mary Hannon, Office of the Commissioner for Trademarks, by telephone at (571) 272–9569.

SUPPLEMENTARY INFORMATION:

Background

Under 35 U.S.C. 41(i), the USPTO must maintain a collection of United States trademark applications and registrations for use by the public in paper, microform, or electronic form. The provision authorizing an electronic search collection was added by section 4804(d)(1) of the American Inventors Protection Act of 1999 ("AIPA"), Title IV, Subtitle B of Public Law 106–113, 113 Stat. 1501, 1501A–589. Section 4804(d)(2) of the AIPA provides that the USPTO can eliminate the paper or microform search collection only pursuant to notice and opportunity for public comment, and only after submitting a report to the Committees on the Judiciary of the Senate and the House of Representatives detailing its plan for removal, and certifying that the implementation of such plan will not negatively impact the public.

The USPTO has previously provided opportunities for the public to comment on the proposed removal of USPTO's paper search records. See notices at 66 FR 45012 (August 27, 2001) and 67 FR 17055 (April 9, 2002). A public hearing was held May 16, 2002. Comments were reviewed and analyzed, and a modified plan addressing the issues raised during the public comment period was developed.

On July 24, 2002, the USPTO submitted a report to Congress detailing a plan for removal of a portion of its paper search collection. However, in response to allegations from the public that there were too many design coding errors in the USPTO's electronic system, the USPTO decided to temporarily retain the portion of the paper collection that includes design coding, and modified its plan accordingly. A report detailing the modified plan was submitted to Congress on May 7, 2003. On May 9, 2003, the USPTO certified to Congress that the USPTO could cease to maintain a paper search collection of marks that consist only of words, without harm to the public. The 2003 report and certification are currently available on the USPTO Web site at *http://www.uspto.gov/web/offices/com/sol/comments/epubsearch/crtpapr.pdf.*

While the 2003 report and certification remain effective, the United States subsequently entered a stipulated settlement in *National Intellectual Property Researchers Association, Inc. v. Rogan,* Civ. A. No. 03–808–A. Among other terms, the settlement required that the USPTO continue to maintain its paper search collection through at least January 1, 2006, to publish a **Federal Register** notice 60 days prior to ceasing maintenance, and to create microform copies of all paper trademark registrations and expired trademark registrations prior to disposing of them.

Since submission of the report to Congress, the USPTO has taken many additional steps to improve the quality and integrity of its electronic search system.

Existing Search Facilities

The USPTO currently maintains a searchable database of registered marks and marks in pending applications. The public can access the database in the Public Search Facility on the premises of the USPTO and also on the USPTO Web site. The database available on the USPTO premises is called X-Search. On the Web site, the database is referred to as the Trademark Electronic Search System ("TESS"). TESS provides the same data and images as X-Search, and the data is updated according to the same schedule. TESS and X-Search contain text and images of all marks in live registrations and pending applications. They also include text and images of marks in abandoned, cancelled and expired records dating back to 1984. Government insignia protected by U.S. law or by Article 6ter of the Paris Convention, and insignia that various federally and state recognized Native American tribes have identified as their official tribal insignia, are also included. Trademark examining attorneys have relied exclusively on the electronic search system since before 1990, and public use of the electronic search system has increased substantially.

Public Search Facility. The public can access X-Search in the Public Search Facility at the USPTO's main offices in Alexandria at 600 Dulany Street, Alexandria, Virginia, James Madison Building—East Wing. Training is available. In addition, the public can view and print the contents of trademark application and registration files through the Trademark Image Capture and Retrieval System ("TICRS"), and can view and print Trademark Trial and Appeal Board ("TTAB") proceeding files through TTABVUE. Status and prosecution history information is available through the Trademark Reporting and Monitoring ("TRAM") System. Electronic searching of trademark assignment records is also available, as are microfilmed deeds, and indexes. All trademark registrations that expired or were cancelled prior to 1990 are available on microform.

The USPTO maintains a separate search facility at 2900 Crystal Drive, Arlington, Virginia, which contains a paper collection of registration certificates for active and some expired registrations.

Internet Searching. The public may also search text and images of registered marks and marks in pending and abandoned applications on the USPTO Web site at *http://www.uspto.gov*, using TESS. Trademark assignment records can be searched on-line through Assignments on the Web ("AOTW"), and status and prosecution history information can be obtained on-line through the Trademark Applications and Registrations Retrieval ("TARR") database. In addition, the public can view and print the contents of trademark application and registration files through the Trademark Document Retrieval ("TDR") portal, and can view and print TTAB proceeding files through TTABVUE. There is no charge for this information.

Discussion

The USPTO has recently taken a number of steps to improve the quality and accuracy of its electronic search system.

Pseudo-Marks. For some marks, the USPTO has added a pseudo-mark field to the electronic system to assist users in locating relevant marks. The pseudo-mark consists of spellings that are similar or phonetically equivalent to a word mark, or the literal equivalent to a pictorial representation of wording in a design mark. Pseudo-marks provide an additional search tool for locating marks that contain an intentionally altered spelling of a normal English word. X-Search and TESS also permit users to search other elements that cannot be searched in the paper files, such as filing date and owner name and address.

Design Marks. In October of 2004, the Office issued an *Official Gazette* notice inviting the public to submit suggestions regarding the design codes and pseudo-marks entered into the USPTO database, in order to enhance the quality of the pseudo-mark data field and the design coding of images in TESS and X-Search. See *Invitation to the Public to Submit Suggestions Regarding Database Design Codes and Pseudo-Marks* (TMOG Oct. 19, 2004) on the USPTO Web site at *http://www.uspto.gov/web/offices/com/sol/og/2004/week42/patsugg.htm.* Between September 23, 2005, and November 9, 2005, the USPTO received 1792

suggestions for correction of design codes and pseudo-marks in pending applications and registrations. Changes were made in 1583 cases, and no changes were deemed appropriate in the other 209 cases.

In October of 2005, the USPTO began sending out notices to every applicant whose mark has a design element, usually in the form of an e-mail message to the applicant or its attorney. Each notice lists the design code(s) that have been applied to the mark, explains what the codes mean, and sets forth a phone number or e-mail box that the applicant can use to suggest corrections or additions to the design codes that the Office has applied. On April 4, 2006, the USPTO began sending notices to applicants whose marks have a pseudo-mark inviting them to correct or add to the pseudo-mark field. Thus, all applicants are given notice and may comment on how a mark is coded and/or what pseudo-mark should be applied. The USPTO regards this as an optimal quality check, since applicants have the strongest interest in assuring that the public can find their applications and registrations. The USPTO will continue to maintain and monitor these e-mail boxes for the use of the public.

The Office has design coded approximately 25,723 applications between November 2, 2005, and April 26, 2006, and has received approximately 877 suggestions for corrections or additions to the coding for particular marks in its design code e-mail box. Design codes were added in 464 cases; and no changes were appropriate in the other 413 cases.

Employee Training and Quality Review. The USPTO administered an examination to its employees and government contractors to ascertain their proficiency in properly tagging data, applying design codes and creating pseudo-marks. Quality reviewers, selected on the basis of the proficiency exam, now review all data tags, pseudo-marks, and design codes before they are uploaded into the automated system. Monthly refresher training on design search codes, pseudo-marks and tagging is provided to employees, which is designed to address problem areas that are identified by the reviewers during the quality review process.

Proposed Changes

Pursuant to AIPA § 4804(d)(2), the USPTO is announcing a modified plan for removal of the paper search collection from the Trademark Search Facility.

Word Marks. The electronic search system provides equivalent functionality to the paper files and superior storage, maintenance and efficiency features. For the reasons discussed in this notice and in the report to Congress dated May 7, 2003, the USPTO plans to remove the paper collection of active and expired trademark registrations that consist only of words. The USPTO has determined that a paper collection of registered word marks is no longer necessary, and has met the requirements of the AIPA with respect to their removal. All papers will be microfilmed prior to removal and the microform collection will be available to the public in the Public Search Facility at 600 Dulany Street, Alexandria, Virginia. This will ensure that all information currently available in the paper search collection remains available to the public. The USPTO expects to complete microfilming by March of 2007. Once microfilming is complete, the USPTO will discard the paper collection of marks consisting only of words. The USPTO will issue a notice 60 days prior to removal. The microform collection will be equivalent to the existing paper collection. The USPTO believes that, even absent the microfilming project, removal of the paper collection will not negatively impact the public. Because the USPTO will continue to maintain all existing word marks in non-electronic form, i.e., on microfilm, the certification requirements of AIPA § 4804(d)(2) are not applicable to such marks.

Design Marks. Marks containing design elements are searchable by design codes. Currently, different coding systems are used for the paper and electronic search systems. The paper design classification system, in which design marks are organized by specific designations (such as "trees," "grotesque humans" or "circles"), is unique to the USPTO. The electronic system uses the International Classification of the Figurative Elements of Marks ("Vienna Classification"). The Vienna Classification is based on a multilateral treaty administered by the World Intellectual Property Organization. It is a numerical classification index that codifies figurative design elements into categories. Each design element in a specific section is assigned a six-digit number. Design marks are coded by identifying the significant design elements and assigning the appropriate codes. The design codes cover all of the possible designs that can be put into a trademark application and are used to search design marks.

A Design Search Code Manual is available on the USPTO Web site at *http://www.uspto.gov.* This manual contains guidance describing elements that are included or excluded from specific codes, cross-references directing the user to related codes, and other explanatory notes and guidelines. The design code manual was recently upgraded to add images to each six digit design code, so that at least one example is now given for each of the six digit design codes. Further, the examples in the manual have been updated and improved. Also, the introduction and general guidelines were rewritten to make them clearer, and many new terms were added to the alphabetical index. The Office has a team working on additional improvements to the manual.

To ensure greater accuracy and flexibility in searching designs, the USPTO is developing a new design code field to be added to TESS and X-Search, which will mirror the existing codes in the paper search files. The USPTO will also continue to apply the Vienna Classification System codes now used in TESS and X-Search to all design marks. Thus, the USPTO plans to create a redundant search system that will allow anyone using TESS or X-Search to use the Vienna Classification System, the design coding system now used in the paper search files, or both. While this new design coding system is being developed and tested, the USPTO will continue to add design code registrations to the paper search collection in the Arlington, Virginia paper search facility.

Once the new coding system has been tested, the USPTO will: (1) Begin coding all design marks in incoming applications and new registrations using the new coding system; (2) stop adding design coded registrations to the paper search collection; and (3) begin microfilming the paper search collection of design marks. When microfilming is complete, the USPTO will discard the paper search collection of design marks.

This plan will result in a highly reliable system that is far superior to the existing paper system. It will create a redundant search system that will be available to all members of the public, not just those on the premises of the USPTO. If a design coding error is made in one system, the design mark in a pending application or registration will be found in a search using the other coding system, since it is unlikely that the same error would be made in both systems.

The new redundant design coding system will not be applied to the backfile, i.e., to applications filed or registrations issued before the date on which the system is implemented. However, all information now available about these applications and registrations in the paper search

collection will remain available to the public in microform in the Public Search Facility. Thus, all information currently available will remain available in non-electronic format.

For the reasons discussed above, the USPTO believes that removal of the paper search collection of marks that include designs will not negatively impact the public. All existing paper records will remain available in microform. Design coding errors will be reduced through checking by applicants and internal training and quality review procedures. The creation of the on-line dual design coding system will benefit the public because it will be available to all members of the public through the Internet.

Any interested member of the public is invited to provide comments on this modified plan to eliminate the trademark paper search collection of marks that includes design elements. Once all comments have been reviewed and addressed, and any necessary modifications have been made, the USPTO will submit another report to Congress detailing its plan. The paper collection of marks containing designs will not be removed until the USPTO has certified that the implementation of such plan will not negatively impact the public. An additional notice to the public will be issued 60 days prior to removal.

Dated: June 15, 2006.

Jon W. Dudas,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. E6–9958 Filed 6–22–06; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Draft Environmental Assessment for the Transformation of the 49th Fighter Wing at Holloman Air Force Base, NM

AGENCY: Department of the Air Force, Air Combat Command, Department of Defense

ACTION: Notice of Availability (NOA) to announce that a Draft Environmental Assessment at Holloman Air Force Base, New Mexico for transforming the 49th Fighter Wing through retirement of the F–117A, and T–38A, and beddown of the F–22A is available for review.

SUMMARY: The United States Air Force is issuing this NOA to announce that a Draft Environmental Assessment (EA) addressing the proposed transformation of the 49th Fighter Wing (49 FW) at Holloman Air Force Base (AFB), New Mexico is available for review. The Draft EA addresses the potential environmental consequences of a proposal to transform the combat capability of the 49th Fighter Wing and maximize the use of available infrastructure at Holloman AFB by replacing the retiring F–117A aircraft and T–38A aircraft supporting the F–117A mission with two new F–22A squadrons. The transformation would enhance the low observable, precision weapons system capability of the 49th Fighter Wing. The Draft EA is issued in compliance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321–4347), the Council on Environmental Quality NEPA Regulations (40 CFR 1500–1508); and the Air Force's Environmental Impact Analysis Process (EIAP) (Air Force Instruction 32–7061 as promulgated at 32 CFR 989). The Draft EA analyzes the following actions at Holloman AFB:

1. Retire F–117A and T–38A aircraft currently based at Holloman AFB.
2. Beddown and operate two F–22A aircraft squadrons.
3. Renovate existing facilities and construct new facilities to support the F–22A squadrons.
4. Adjust base manning to reflect F–22A beddown requirements.
5. Conduct F–22A training routinely in airspace within 100 miles of Holloman AFB, to include supersonic operations.
6. Create on Air Traffic Control Assigned Airspace (ATCAA) and modify the Cowboy ATCAA.
7. Expand chaff and flare use in military airspace.

Alternative airspace training and the No Action Alternative are addressed in the Draft EA. The Draft EA is available for review at the following: Online at *http://www.a7zpintegratedplanning.org;* Alamogordo Public Library, Artesia Public Library, Branigan Memorial Library, Carlsbad Municipal Library, Cloudcroft Library, Dona Ana Community College Library, El Paso Community College-Rio Grande Campus Library and Transmountain Campus Library, El Paso Public Library, Las Cruces Public Library, New Mexico State University Branson Library, New Mexico State University Alamogordo Library, Ruidoso Public Library, Truth or Consequences Public Library, Village of Carrizozo, Holloman AFB Library, National Technical Information Service, and Mescalero Community Library; or you may also request a copy of the Draft EA from Holloman AFB Public Affairs at 505–572–5406.

ADDRESSES: Submit written comments before July 24, 2006 to Ms. Linda DeVine, HQ ACC/A7ZP, c/o SAIC, 22 Enterprise Parkway, Suite 200 Hampton, VA 23666. Public comments on this Draft EA are requested pursuant to the National Environmental Policy Act, 42 U.S.C. 4321, et seq. All written comments received during the comment period will be made available to the public and considered during Final EA preparation. The provision of private address information with your comment is voluntary and will not be released for any other purpose unless required by law. However, this information is used to compile the project mailing list and failure to provide it will result in your name not being included on the mailing list.

FOR FURTHER INFORMATION CONTACT: Ms. Linda DeVine, HQ ACC/A7ZP, c/o SAIC, 22 Enterprise Parkway, Suite 200 Hampton, VA 23666.

Bao-Anh Tring,

Air Force Federal Register Liaison Officer.

[FR Doc. E6–9917 Filed 6–22–06; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 22, 2006.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the

following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: June 16, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Planning, Evaluation and Policy Development

Type of Review: New.

Title: Child Care Survey of Postsecondary Institutions.

Frequency: One time.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 688.
Burden Hours: 688.

Abstract: Policy and Program Studies Service (PPSS) needs these data to determine (1) the extent to which Child Care Access Means Parents in School (CCAMPIS) grantees are better able than similar postsecondary institutions to provide child care services to low-income students, and (2) if data are available to determine if these services improve these students' persistence and graduation rates. Data collected from child care directors at grantee and non-grantee institutions will be used to monitor and improve the CCAMPIS program.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 3142. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–9908 Filed 6–22–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Overview Information; Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities—General Supervision Enhancement Grants; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2006

Catalog of Federal Domestic Assistance (CFDA) Number: 84.326X.

Dates: Applications Available: June 23, 2006.

Deadline for Transmittal of Applications: August 7, 2006.

Deadline for Intergovernmental Review: September 6, 2006.

Eligible Applicants: State educational agencies (SEAs), and if endorsed by the SEA to apply and carry out the project on behalf of the SEA, local educational agencies (LEAs), public charter schools that are LEAs under State law, institutions of higher education (IHEs), other public agencies, private nonprofit organizations, and for-profit organizations.

Estimated Available Funds: $3,690,000.

Maximum Award: We will reject any application that proposes a budget exceeding $307,500 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Number of Awards: 12.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 12 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: This program promotes academic achievement and improves results for children with disabilities by supporting technical assistance, model demonstration projects, dissemination of useful information, and implementation activities that are supported by scientifically-based research.

Priority: In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified in the statute (see sections 663 and 681(d) of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1400 et seq.).

Absolute Priority: For FY 2006 this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is: *General Supervision Enhancement Grants (GSEG).*

Background

Section 616 of the Individuals with Disabilities Education Act (IDEA) requires the Department and States to establish and implement systems for monitoring implementation of and enforcing obligations under Parts B and C of IDEA. The Department monitors States, and requires each State to monitor its LEAs, using indicators that the Secretary established for certain priority areas under section 616 of IDEA. Under Part B of the IDEA (Part B) each State must develop a State Performance Plan (SPP) that, among other things, evaluates its efforts to implement the requirements and purposes of Part B. As part of its SPP, a State must establish targets for the indicators established by the Secretary, and use those targets and indicators in annually reporting to the Secretary on its performance in the priority areas. Each State also must use its targets and the Secretary's indicators to report annually to the public on the performance of each LEA in the State.

One of the indicators established by the Secretary under section 616 of IDEA (for the priority area concerning the provision of a free appropriate public education in the least restrictive environment) is the participation and performance of children with disabilities on the State assessments required under title I of the Elementary and Secondary Education Act of 1965, as amended (ESEA). States are expected to report on student performance on State assessments in their SPPs and Annual Performance Reports (APRs) using the same assessment data required under title I of ESEA.

Title I of ESEA requires accountability for the academic achievement of all students. Under that law, every school is expected to be working to ensure that every one of its students and group of students meet State achievement

standards as documented by their performance on State assessments. Under title I of ESEA, a State's academic assessment system must be valid and reliable for the purposes for which the assessment system is used and it must be consistent with relevant, nationally recognized professional and technical standards for assessment. In addition, a State's academic assessment system must be accessible for use by the widest possible range of students, including students with disabilities, students covered under section 504 of the Rehabilitation Act of 1973, as amended, and students with limited English proficiency.

Under both title I of ESEA and IDEA, State academic assessments must provide for reasonable testing accommodations for students with disabilities where necessary. Many students with disabilities require test accommodations in order to ensure that the State's academic assessment accurately measures their knowledge and skills. Accommodations are changes in testing materials or procedures that ensure that an assessment measures a student's knowledge and skills rather than the student's disabilities or English proficiency. Accommodations generally are grouped into the categories of: (1) Presentation; (2) Response; (3) Setting; and (4) Timing and Scheduling. Section 612(a)(16)(B) of IDEA requires that all States have guidelines for the provision of appropriate accommodations.

In addition, the Department's regulations under title I of ESEA allow States to develop alternate achievement standards that are aligned with the State's academic content standards and reflect professional judgment of the highest learning standards possible for that very limited group of students with the most significant cognitive disabilities. The Department's regulations under title I of ESEA permit the proficient and advanced scores of students assessed based on alternate achievement standards to be included in adequate yearly progress (AYP) calculations in the same manner as scores based on grade level achievement, subject to a cap of one percent of all students in the grades assessed, at the district and State level. See *http://www.ed.gov/legislation/FedRegister/finrule/2003–4/120903a.pdf* for more information. Under section 612(a)(16)(C) and (D) of IDEA, States must report on the number and performance of students taking alternate assessments based on alternate achievement standards.

All alternate assessments that are used for title I ESEA purposes must be designed to generate valid data that can be used for AYP purposes under ESEA. All alternate assessments must also meet the requirements in 34 CFR 200.2 (State Responsibilities for Assessment) and 34 CFR 200.3 (Designing State Academic Assessment Systems), including the requirements relating to validity, reliability, and high technical quality; and fit coherently in the State's overall assessment system under 34 CFR 200.2. The alternate assessment must, among other things: (1) Be valid and reliable for the purposes for which the assessment system is used; (2) be consistent with relevant, nationally recognized professional and technical standards; and (3) be supported by evidence from test publishers or other relevant sources that the assessment system is of adequate technical quality for each purpose required under ESEA. States must include alternate assessment data in their SPPs and APRs relative to performance and participation of children with disabilities on State assessments under IDEA.

The Department is announcing the following priority to assist States in: (1) Developing alternate achievement standards aligned with the State's academic content standards; (2) developing high-quality alternate assessments that measure the achievement of students with the most significant cognitive disabilities based on those standards; (3) reporting on the participation and performance of students with disabilities on alternate assessments; and (4) developing appropriate assessment accommodations that do not alter the established reliability and validity of the assessment instrument.

Priority

This priority supports projects that assist States in improving their capacity to accurately report on the performance and participation of children with disabilities on the State's assessments.

In order to meet this priority an applicant must demonstrate that the project for which it seeks funding will do one or more of the following: (1) Develop alternate achievement standards aligned with the State's academic content standards; (2) develop high-quality alternate assessments that measure the achievement of students with the most significant cognitive disabilities based on those standards; (3) report on the participation and performance of students with disabilities on alternate assessments; and (4) develop appropriate assessment accommodations that do not alter the established reliability and validity of the assessment instrument.

Projects funded under this priority also must—

(a) Budget to attend a two-day Project Directors' meeting;

(b) If the project maintains a Web site, include relevant information and documents in a format that meets a government or industry-recognized standard for accessibility; and

(c) Provide a written assurance that the State's Assessment Office (e.g., the office that addresses ESEA accountability) was given the opportunity to contribute to the formulation of the application.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on a proposed priority. However, section 681(d) of IDEA makes the public comment requirements under the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1463 and 1481(d).

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98, and 99.

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 IHEs only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: $3,690,000.

Maximum Award: We will reject any application that proposes a budget exceeding $307,500 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Number of Awards: 12.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 12 months.

III. Eligibility Information

1. *Eligible Applicants:* SEAs, and if endorsed by the SEA to apply and carry out the project on behalf of the SEA, LEAs, public charter schools that are LEAs under State law, IHEs, other public agencies, private nonprofit organizations, and for-profit organizations.

2. *Cost Sharing or Matching:* This competition does not involve cost sharing or matching.

3. *Other: General Requirements*—(a) The projects funded under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Applicants and grant recipients funded under this competition must involve individuals with disabilities or parents of individuals with disabilities ages birth through 26 in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Address to Request Application Package:* Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *http://www.ed.gov/pubs/edpubs.html* or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov*.

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA Number 84.326X.

Individuals with disabilities may obtain a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the Grants and Contracts Services Team listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition. Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III 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.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; the one-page abstract, the resumes, the bibliography, the references, or the letters of support. However, you must include all of the application narrative in Part III.

We will reject your application if—

- You apply these standards and exceed the page limit; or
- You apply other standards and exceed the equivalent of the page limit.

3. *Submission Dates and Times:*

Applications Available: June 23, 2006.

Deadline for Transmittal of Applications: August 7, 2006.

Applications for grants under this competition may be submitted electronically using the Grants.gov Apply site (Grants.gov), or in paper format by mail or hand delivery. For information (including dates and times) about how to submit your application electronically, or by mail or hand delivery, please refer to section IV. 6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

Deadline for Intergovernmental Review: September 6, 2006.

4. *Intergovernmental Review*: This program 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:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under this competition may be submitted electronically or in paper format by mail or hand delivery.

a. Electronic Submission of Applications

We have been accepting applications electronically through the Department's e-Application system since FY 2000. In order to expand on those efforts and comply with the President's Management Agenda, we are continuing to participate as a partner in the new government wide Grants.gov Apply site in FY 2006. The General Supervision Enhancement Grants-CFDA Number 84.326X is one of the programs included in this project. We request your participation in Grants.gov.

If you choose to submit your application electronically, you must use the Grants.gov Apply site at *http://www.Grants.gov*. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

You may access the electronic grant application for the General Supervision Enhancement Grants at: *http://www.grants.gov*. You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search.

Please note the following:

- Your participation in Grants.gov is voluntary.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are time and date stamped. Your application must be fully uploaded and submitted, and must be date/time stamped by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not consider your application if it is date/time stamped by the Grants.gov system later than 4:30 p.m., Washington, DC time, on the application deadline date. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date/time stamped by the Grants.gov system after 4:30 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov at *http://e-Grants.ed.gov/help/GrantsgovSubmissionProcedures.pdf*.

• To submit your application via Grants.gov, you must complete all of the steps in the Grants.gov registration process (see *http://www.Grants.gov/GetStarted*). These steps include (1) registering your organization, (2) registering yourself as an Authorized Organization Representative (AOR), and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3–Step Registration Guide (see *http://www.grants.gov/assets/GrantsgovCoBrandBrochure8X11.pdf*). You also must provide on your application the same D–U–N–S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to successfully submit an application via Grants.gov.

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you submit your application in paper format.

• You may submit all documents electronically, including all information typically included on the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. If you choose to 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 above or submit a password protected file, we will not review that material.

• Your electronic application must comply with any page limit requirements described in this notice.

• After you electronically submit your application, you will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The Department will retrieve your application from Grants.gov and send you a second confirmation by e-mail that will include a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of System Unavailability

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically, or by hand delivery. You also may mail your application by following the mailing instructions as described elsewhere in this notice. If you submit an application after 4:30 p.m., Washington, DC time, on the deadline date, please contact the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT**, and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number (if available). We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: Extensions referred to in this section apply only to the unavailability of or technical problems with the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

b. Submission of Paper Applications by Mail

If you submit your application in paper format by mail (through the U.S. Postal Service or a commercial carrier), you must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.326X), 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 84.326X), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark,

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service,

(3) A dated shipping label, invoice, or receipt from a commercial carrier, or

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. Submission of Paper Applications by Hand Delivery

If you submit your application in paper format by hand delivery, you (or a courier service) must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.326X), 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 4 of ED 424 the CFDA number—and suffix letter, if any—of the competition under which you are submitting your application.

(2) The Application Control Center will mail a grant application receipt acknowledgment to you. If you do not receive the grant application receipt acknowledgment within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

Selection Criteria: The selection criteria for this competition are from 34 CFR 75.210 and are listed in the application package.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification

(GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118.

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has developed measures that will yield information on various aspects of the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program. These measures focus on: the extent to which projects provide high quality products and services, the relevance of project products and services to educational and early intervention policy and practice, and the use of products and services to improve educational and early intervention policy and practice.

We will notify grantees if they will be required to provide any information related to these measures.

Grantees also will be required to report information on their projects' performance in annual reports to the Department (34 CFR 75.590).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Larry Wexler, U.S. Department of Education, 400 Maryland Avenue, SW., room 4019, Potomac Center Plaza, Washington, DC 20202–2550. Telephone: (202) 245–7571.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request by contacting the following office: The Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center Plaza, Washington, DC 20202–2550. Telephone: (202) 245–7363.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: June 14, 2006.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. E6–9967 Filed 6–22–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge Reservation. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register.**

DATES: Wednesday, July 12, 2006, 6 p.m.

ADDRESSES: DOE Information Center, 475 Oak Ridge Turnpike, Oak Ridge, Tennessee.

FOR FURTHER INFORMATION CONTACT: Pat Halsey, Federal Coordinator, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831. Phone (865) 576–4025; Fax (865) 576–5333 or e-mail: *halseypj@oro.doe.gov* or check the Web site at *http://www.oakridge.doe.gov/em/ssab.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); Resource Conservation and Recovery Act (RCRA); Toxic Substances Control Act (TSCA); National Environmental Policy Act (NEPA); and Other Regulations.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to the agenda item should contact Pat Halsey at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: Minutes of this meeting will be available for public review and copying at the Department of Energy's Information Center at 475 Oak Ridge Turnpike, Oak Ridge, TN between 8 a.m. and 5 p.m., Monday through Friday, or by writing to Pat Halsey, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831, or by calling her at (865) 576–4025.

Issued at Washington, DC on June 19, 2006.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. E6–9927 Filed 6–22–06; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6676–6]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental

Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 7, 2006 (71 FR 17845).

Draft EISs

EIS No. 20060091, ERP No. D–AFS–K65303–CA, Phoenix Project Area, Treat Poor Forest Health, High Fire Hazard Condition, Develop a Network of Defensible Fuel Profile Zones (DFPZs), and Restore Aspen Stand, Sierraville Ranger District, Tahoe National Forest, Sierra and Nevada Counties, CA.

Summary

EPA expressed environmental concerns about potential impacts to watershed resources, air quality, and noxious weeds, and recommended additional measures to avoid or mitigate them. Rating EC2.

EIS No. 20060109, ERP No. D–NPS–E65080–KY, Abraham Lincoln Birthplace National Historic Site, General Management Plan, Implementation, LaRue County, KY.

Summary

EPA does not object to the proposed action. Rating LO.

EIS No. 20060124, ERP No. D–AFS–F65062–MN, Echo Trail Area Forest Management Project, Forest Vegetation Management and Related Transportation System, Superior National Forest Land and Resource Management Plan, Lacroix Ranger District and Kawishiwi Ranger District, St. Louis and Lake Counties, MN.

Summary

EPA expressed environmental concerns about potential impacts to water quality and soil resources from erosion, oil spill or leaks, and compaction as well as emissions from logging equipment, and suggested that the Final EIS include a mitigation plan detailing avoidance or mitgation measures for potential impacts. Rating EC2.

EIS No. 20060137, ERP No. D–AFS–F65063–WI, Twentymile Restoration Project Area, Restore Northern Hardwood Forests to an Unieven-aged Condition, Great Divide Ranger District, Chequamegon-Nicolet National Forest, Ashland and Bayfield Counties, WI.

Summary

EPA expressed environmental concerns about the proposed alternative meeting the goals set forth in the biological opinion for the management of sensitive species as well as being consistent with the Forest Plan goals of maintaining adequate habitat to support viable populations. Rating EC2.

EIS No. 20060165, ERP No. D–NPS–J65463–CO, Rocky Mountain National Park, Elk and Vegetation Management Plan, Implementation, Grand and Larimer Counties, CO.

Summary

EPA does not object to the proposed project. Rating LO.

Final EISs

EIS No. 20060185, ERP No. F–AFS–F65055–MI, Hiawatha National Forest, Proposed Land and Resource Management Plan, Forest Plan Revision, Implementation, Alger, Cheboygan, Chippewa, Delta, Luce, Mackinac, Marquette, and Schoolcraft Counties, MI.

Summary

EPA does not object to the preferred alternative.

Dated: June 20, 2006.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E6–9952 Filed 6–22–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6676–5]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 6/12/2006 through 6/16/2006

Pursuant to 40 CFR 1506.9.

EIS No. 20060253, Draft EIS, AFS, NV, Jarbidge Ranger District Rangeland Management Project, Authorize Continued Livestock Grazing, Humboldt-Toiyabe National Forest, Columbia River, NV, Comment Period Ends: 8/7/2006, Contact: James Winfrey 775–778–6129.

EIS No. 20060254, Final EIS, FHW, NY, Southtowns Connector/Buffalo Outer Harbor Project, Improvements on the NYS Route 5 Corridor from Buffalo Skyway Bridge to NYS Route 179, in the City of Buffalo, City of Lackawanna and Town of Hamburg, Erie County, NY, Wait Period Ends: 7/24/2006, Contact: Robert Arnold 518–431–4127.

EIS No. 20060255, Final EIS, NPS, IA, Hoover Creek Stream Management Plan, Implementation, Herbert Hoover National Historic Site, IA, Wait Period Ends: 7/24/2006, Contact: Bruce McKeeman 319–643–2541.

EIS No. 20060256, Draft EIS, AFS, CA, Pilgrim Vegetation Management Project, Proposes Commercial Thinning/Sanitation, Shasta-Trinity National Forest, Siskiyou County, CA, Comment Period Ends: 8/7/2006, Contact: Dennis Poehlmann 530–926–9656.

EIS No. 20060257, Draft EIS, AFS, AK, Helicopter Access to Conduct Forest Inventory and Analysis (FIA) in Wilderness, Implementation, Tongass and Chugach National Forest, AK, Comment Period Ends: 8/7/2006, Contact: Ken Post 907–586–8796.

EIS No. 20060258, Draft EIS, FRC, OR, Clackamas River Hydroelectric Project, Application for Relicensing of a Existing 173 megawatt(MS) Project, (FERC No. 2195–011) Clackamas River Basin, Clackamas County, OR, Comment Period Ends: 8/7/2006, Contact: John Blair 202–502–6092.

EIS No. 20060259, Final EIS, BLM, UT, Uinta Basin Natural Gas Project, Proposal to Produce and Transport Natural Gas in the Atchee Wash Oil and Gas Production Region, Resource Development Group, Right-of-Way Grant, U.S. COE Section 404 Permit and Endangered Species Act Permit, Uintah County, UT, Wait Period Ends: 7/24/2006, Contact: Stephanie Howard 435–781–4400.

Amended Notices

EIS No. 20060181, Draft EIS, BLM, 00, Devers-Palo Verde No. 2 Transmission Line Project, Construction and Operation a New 230-mile 500 kV Electric Transmission Line between Devers Substation in California and Harquahala Generating Substation in Arizona, Comment Period Ends: 08/11/2006, Contact: Greg Hill 760–251–4840. Revision to FR Notice Published 5/19/2006: Comment Period Extended from 7/05/2006 to 8/11/2006.

EIS No. 20060209, Draft EIS, NPS, PA, Flight 93 National Memorial, Designation of Crash Site to Commemorate the Passengers and Crew of Flight 93, Implementation, Stonycreek Township, Somerset County, PA, Comment Period Ends: 8/14/2006, Contact: Jeff Reinbold 814–443–4557. Revision of FR Notice Published 5/26/2006: Extending Comment Period from 7/17/2006 to 8/14/2006.

EIS No. 20060218, Draft EIS, FHW, NY, Williamsville Toll Barrier Improvement Project, Improvements from New York Thruway, Interstate 90 between Interchange 48A and 50, Funding, Erie and Genesee Counties, NY, Comment Period Ends: 7/24/2006, Contact: Amy Jackson-Grove 518–431–4125. Revision to FR Notice Published 6/2/2006: Correction to Comment Period from 7/17/2006 to 7/24/2006..

Dated: June 20, 2006.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E6–9951 Filed 6–22–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0484; FRL–8068–1]

Pesticide Reregistration Performance Measures and Goals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's progress in meeting its performance measures and goals for pesticide reregistration during fiscal year 2005. The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) requires EPA to publish information about EPA's annual achievements in this area. This notice discusses the integration of tolerance reassessment with the reregistration process, and describes the status of various regulatory activities associated with reregistration and tolerance reassessment. The notice gives total numbers of chemicals and products reregistered, tolerances reassessed, Data Call-Ins issued, and products registered under the "fast-track" provisions of FIFRA. Finally, this notice contains the schedule for completion of activities for specific chemicals during fiscal years 2006 through 2008.

DATES: This notice is not subject to a formal comment period. Nevertheless, EPA welcomes input from stakeholders and the general public. Written comments, identified by the docket ID number [EPA–HQ–OPP–2005–0484], should be received on or before August 22, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0484, by one of the following methods:

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2005–0484. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov/*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be captured automatically and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/docket.htm/*.

Docket: All documents in the docket are listed in the 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, will be publicly available only in hard copy. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Carol P. Stangel, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone: (703) 308–8007; e-mail: *stangel.carol@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who are interested in the progress and status of EPA's pesticide reregistration and tolerance reassessment programs, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. What Should I Consider as I Prepare My Comments for EPA?

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

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying

information (subject heading, **Federal Register** date, and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

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

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

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

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

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

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

II. Background

EPA must establish and publish in the **Federal Register** its annual performance measures and goals for pesticide reregistration, tolerance reassessment, and expedited registration, under section 4(l) of FIFRA, as amended by the Food Quality Protection Act of 1996 (FQPA). Specifically, such measures and goals are to include:

- The status of reregistration.
- The number of products reregistered, canceled, or amended.
- The number and type of data requests or Data Call-In (DCI) notices under section 3(c)(2)(B) issued to support product reregistration by active ingredient.
- Progress in reducing the number of unreviewed, required reregistration studies.
- The aggregate status of tolerances reassessed.
- The number of applications for registration submitted under subsection (k)(3), expedited processing and review of similar applications, that were approved or disapproved.
- The future schedule for reregistrations in the current and succeeding fiscal year.
- The projected year of completion of the reregistrations under section 4.

FIFRA, as amended in 1988, authorizes EPA to conduct a comprehensive pesticide reregistration program--a complete review of the human health and environmental effects of older pesticides originally registered before November 1, 1984. Pesticides meeting today's scientific and regulatory standards may be declared "eligible" for reregistration. To be eligible, an older pesticide must have a substantially complete data base, and must not cause unreasonable adverse effects to human health or the environment when used according to Agency approved label directions and precautions.

In addition, all pesticides with food uses must meet the safety standard of section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA) 21 U.S.C. 346a, as amended by the Food Quality Protection Act (FQPA) of 1996. Under FFDCA, EPA must make a determination that pesticide residues remaining in or on food are "safe"; that is, "that there is reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue" from dietary and other sources. In determining allowable levels of pesticide residues in food, EPA must perform a more comprehensive assessment of each pesticide's risks, considering:

- Aggregate exposure (from food, drinking water, and residential uses).
- Cumulative effects from all pesticides sharing a common mechanism of toxicity.
- Possible increased susceptibility of infants and children; and
- Possible endocrine or estrogenic effects.

As amended by FQPA, FFDCA requires the reassessment of all existing tolerances (pesticide residue limits in food) and tolerance exemptions within 10 years, to ensure that they meet the safety standard of the law. EPA was directed to give priority to the review of those pesticides that appear to pose the greatest risk to public health, and to reassess 33% of the 9,721 existing tolerances and exemptions within 3 years (by August 3, 1999), 66% within 6 years (by August 3, 2002), and 100% in 10 years (by August 3, 2006).The Agency met the first two statutory deadlines and is on schedule to meet the third. EPA's approach to tolerance reassessment under FFDCA is described fully in the Agency's document, "Raw and Processed Food Schedule for Pesticide Tolerance Reassessment" (62 FR 42020, August 4, 1997) (FRL–5734–6).

The Pesticide Registration Improvement Act (PRIA) of 2003 became effective on March 23, 2004. Among other things, PRIA directs EPA to complete Reregistration Eligibility Decisions (REDs) for pesticides with food uses/tolerances by August 3, 2006, and to complete all non-food use pesticide REDs by October 3, 2008. EPA's schedule for meeting these deadlines is available on the Agency's website at *www.epa.gov/pesticides/reregistration/decision_schedule.htm.*

III. FQPA and Program Accountability

One of the hallmarks of the FQPA amendments to the FFDCA is enhanced accountability. Through this summary of performance measures and goals for pesticide reregistration, tolerance reassessment, and expedited registration, EPA describes progress made during the past year in each of the program areas included in FIFRA section 4(l).

A. Status of Reregistration

During fiscal year (FY) 2005 (from October 1, 2004, through September 30, 2005), EPA made significant progress in completing risk assessments and risk management decisions for pesticide reregistration (See Table 1).

TABLE 1.—REREGISTRATION/RISK MANAGEMENT DECISIONS COMPLETED: IN FY 2005 AND FY 1991 THROUGH FY 2005

FY 2005 Decisions	Total, FY 1991 through FY 2005
28 REDs (27 countable) 2,4-D 2,4-DB Ametryn 4-Amylphenol Aquashade Azadioxabicyclooctane Benzisothiazolin-3-one Chloroneb Chlorsulfuron Dimethipin Dodine Endothall Ethofumesate Ferbam (case 2180 already counted with Ziram) Fluometuron Inorganic polysulfides Maneb Mancozeb Metiram Napropamide Nitrapyrin Phenmedipham Pyrazon Sethoxydim Tau-fluvalinate Thidiazuron Trichloromelamine Xylene (Aromatic solvents)	271 REDs
0 IREDs	23 IREDs
13 TREDs Ammonia Bromine Cyhexatin Fluazifop-p-butyl Flumiclorac-pentyl Imazamethabenz-methyl Maleic hydrazide Methyl eugenol Nicosulfuron Procymidone Putrescent whole egg solids Sulfuric acid monourea Tanol derivatives	83 TREDs

The Agency's decisions are embodied in Reregistration Eligibility Decision (RED) documents, Interim Reregistration Eligibility Decisions (IREDs), and Reports on FQPA Tolerance Reassessment Progress and [Interim] Risk Management Decisions (TREDs).

1. *REDs.* Through the reregistration program, EPA is reviewing current scientific data for older pesticides (those initially registered before November 1984), reassessing their effects on human health and the environment, and requiring risk mitigation measures as necessary. Pesticides that have sufficient supporting data and whose risks can be successfully mitigated may be declared "eligible" for reregistration. EPA presents these pesticide findings in a RED document.

i. *Overall RED progress.* EPA's overall progress at the end of FY 2005 in completing Reregistration Eligibility Decisions (REDs) for groups of related pesticide active ingredients or cases is summarized in Table 2.

TABLE 2.—OVERALL RED PROGRESS, FY 1991 THROUGH FY 2005

REDs completed	271 (44%)
Cases canceled	231 (38%)
REDs to be completed	110 (18%)
Total reregistration cases	612 (100%)

ii. *Profile of completed REDs.* A profile of the 271 REDs completed by the end of FY 2005 is presented in Table 3.

TABLE 3.—PROFILE OF 271 REDS COMPLETED, FY 1991 THROUGH FY 2005

Pesticide active ingredients	45
Pesticide products	about 11,600
REDs with food uses	155
Post-FQPA REDs	130

TABLE 3.—PROFILE OF 271 REDS COMPLETED, FY 1991 THROUGH FY 2005—Continued

Post-FQPA REDs with food uses*	102

*EPA is revisiting tolerances associated with the 53 food use REDs that were completed before FQPA was enacted to ensure that they meet the safety standard of the new law, as set forth in the Agency's August 4, 1997, Schedule for Pesticide Tolerance Reassessment.

iii. *Risk reduction in REDs.* Through the reregistration program, EPA seeks to reduce risks associated with the use of older pesticides. In developing REDs, EPA works with stakeholders including pesticide registrants, growers and other pesticide users, and environmental and public health interests, as well as the States, USDA, and other Federal agencies and others to develop measures to effectively reduce risks of concern. Almost every RED includes some measures or modifications to reduce risks. The options for such risk reduction are extensive and include voluntary cancellation of pesticide products or deletion of uses; declaring certain uses ineligible or not yet eligible (and then proceeding with follow-up action to cancel the uses or require additional supporting data); restricting use of products to certified applicators; limiting the amount or frequency of use; improving use directions and precautions; adding more protective clothing and equipment requirements; requiring special packaging or engineering controls; requiring no-treatment buffer zones; employing ground water, surface water, or other environmental and ecological safeguards; and other measures.

2. *Interim REDs or IREDs.* EPA issues IREDs for pesticides that are undergoing reregistration, require a reregistration eligibility decision, and also must be included in a cumulative assessment under FQPA because they are part of a group of pesticides that share a common mechanism of toxicity. An IRED is issued for each individual pesticide in the cumulative group when EPA completes the pesticide's risk assessment and interim risk management decision. An IRED may include measures to reduce food, drinking water, residential, occupational, and/or ecological risks, to gain the benefit of these changes before the final RED can be issued following the Agency's consideration of cumulative risks. For example, EPA generally has not considered individual organophosphate (OP) pesticide decisions to be completed REDs or tolerance reassessments. Instead, the Agency has issued IREDs for these chemicals. EPA will complete the risk assessments and reregistration eligibility decisions for OP pesticides with IREDs, once the Agency completes a cumulative assessment of the OPs.

3. *Tolerance reassessment "TREDs."* EPA issues Reports on FFDCA Tolerance Reassessment Progress and [Interim] Risk Management Decisions, known as TREDs, for pesticides that require tolerance reassessment decisions under FFDCA, but do not require a reregistration eligibility decision at present because:

- The pesticide was first registered after November 1, 1984, and is considered a "new" active ingredient, not subject to reregistration;
- EPA completed a RED for the pesticide before FQPA was enacted; or
- The pesticide is not registered for use in the U.S. but tolerances are established that allow crops treated with the pesticide to be imported from other countries.

As with IREDs, EPA will not complete risk assessment and risk management for pesticides subject to TREDs that are part of a cumulative group until cumulative risks have been considered for the group.

During FY 2005, in addition to completing 13 TREDs, EPA also completed 168 tolerance assessment decisions for pesticide inert ingredients that are exempted from the tolerance requirement. Almost 900 of the 9,721 tolerance reassessment decisions required by the amended FFDCA are for such inert ingredient tolerance exemptions. EPA has reassessed 573 of these inert ingredient tolerance exemptions to date, and plans to complete the reassessment of all the inert ingredient tolerance exemptions by August 2006.

As a result of the Food Quality Protection Act of 1996, food-contact surface sanitizers previously regulated by both EPA and the Food and Drug Administration were transferred to EPA's sole jurisdiction. Consequently, the approximately 107 ingredients that made up these sanitizer solutions in 21 CFR 178.1010 were transferred to 40 CFR part 180, subpart D. In addition to reassessing the 9,721 tolerances and exemptions for food and feed commodities, EPA also must reassess these sanitizer tolerance exemptions by August 3, 2006. The Antimicrobials Division (AD) in EPA's Office of Pesticide Programs is responsible for reassessing exemptions from the requirement of a tolerance for the food-contact surface sanitizing solutions requiring reassessment. AD is reassessing 60 of the 107 exemptions, either as free-standing decisions or through REDs. During FY 2005, AD completed 35 tolerance exemption reassessments decisions for 22 of these 60 food-contact surface sanitizing solution ingredients. EPA is reassessing tolerance exemptions for the other food-contact surface sanitizing solutions through other REDs and inert exemption decisions.

4. *Goals for FY 2006 and future years.* EPA's major pesticide reregistration and tolerance reassessment goals for FY 2006 and future years are as follows.

i. *Complete individual pesticide risk management decisions.* EPA's goal in conducting the reregistration and tolerance reassessment program is to complete about 45 Reregistration Eligibility Decisions (REDs) and Interim REDs (IREDs) during FY 2006, for pesticides with associated tolerances, and to complete a total of about 45 REDs in FY 2007 and FY 2008, for pesticides with no food uses or tolerances. This will satisfy PRIA requirements and support the Agency's tolerance reassessment goal. EPA's schedule for completing these decisions appears near the end of this document, and also is available on the Agency's Web site at *http://www.epa.gov/pesticides/reregistration/decision_schedule.htm.*

ii. *Complete tolerance reassessment decisions.* EPA is continuing to reassess tolerances within time frames set forth in FFDCA as amended by FQPA, giving priority to those food use pesticides that appear to pose the greatest risk. Integration of the reregistration and tolerance reassessment programs has added complexity to the reregistration process for food use pesticides. The Agency successfully reached its first two tolerance reassessment milestones by completing over 33% of all tolerance reassessment decisions by August 3, 1999, and over 66% by August 3, 2002. EPA plans to meet the final FQPA tolerance reassessment goal.

iii. *Evaluate cumulative risks.* Once EPA completes individual risk assessments for the OPs, carbamates and others, the Agency will make cumulative risk findings for each of these common mechanism groups of pesticides. For further information, see EPA's cumulative risk website, *http://www.epa.gov/pesticides/cumulative/.*

B. Product Reregistration; Numbers of Products Reregistered, Canceled, and Amended

At the end of the reregistration process, after EPA has issued a RED and declared a pesticide reregistration case eligible for reregistration, individual end-use products that contain pesticide active ingredients included in the case

still must be reregistered. This concluding part of the reregistration process is called "product reregistration."

In issuing a completed RED document, EPA sends registrants a Data Call-In (DCI) notice requesting any product-specific data and specific revised labeling needed to complete reregistration for each of the individual pesticide products covered by the RED. Based on the results of EPA's review of these data and labeling, products found to meet FIFRA and FFDCA standards may be reregistered.

A variety of outcomes are possible for pesticide products completing this final phase of the reregistration process. Ideally, in response to the DCI notice accompanying the RED document, the pesticide producer, or registrant, will submit the required product-specific data and revised labeling, which EPA will review and find acceptable. At that point, the Agency may reregister the pesticide product. If, however, the product contains multiple active ingredients, the Agency instead issues an amendment to the product's registration, incorporating the labeling changes specified in the RED; a product with multiple active ingredients may not be fully reregistered until the last active ingredient in its formulation is eligible for reregistration. In other situations, the Agency may temporarily suspend a product's registration if the registrant has not submitted required product-specific studies within the time frame specified. The Agency may cancel a product's registration because the registrant did not pay the required registration maintenance fee. Alternatively, the registrant may request a voluntary cancellation of their end-use product registration.

1. *Product reregistration actions in FY 2005.* EPA counts each of the post-RED product outcomes described above as a product reregistration action. A single pesticide product may be the subject of several product reregistration actions within the same year. For example, a product's registration initially may be amended, then the product may be reregistered, and later the product may be voluntarily canceled, all within the same year. During FY 2005, EPA completed the product reregistration actions detailed in Table 4.

TABLE 4.—PRODUCT REREGISTRATION ACTIONS COMPLETED DURING FY 2005

Product reregistration actions	99
Product amendment actions	63
Product cancellation actions	342
Product suspension actions	0
Total actions	504

2. *Status of the product reregistration universe.* The status of the universe of pesticide products subject to reregistration at the end of FY 2005 is shown in Table 5 below. This overall status information is not "cumulative"--it is not derived from summing up a series of annual actions. Adding annual actions would result in a larger overall number since each individual product is subject to multipleactions--it can be amended, reregistered, and/or canceled, over time. Instead, the "big picture" status information in Table 5 should be considered a snapshot in time. As registrants and EPA make marketing and regulatory decisions in the future, the status of individual products may change, and numbers in this table are expected to fluctuate.

TABLE 5.—STATUS OF THE UNIVERSE OF PRODUCTS SUBJECT TO PRODUCT REREGISTRATION, FOR FY 2005 (AS OF SEPTEMBER 30, 2005)

Products reregistered	1,875
Products amended	505
Products canceled	4,375
Products sent for suspension	30
Total products with actions completed	6,785
Products with actions pending	4,828
Total products in product reregistration universe	11,613

The universe of 11,613 products in product reregistration at the end of FY 2005 represented an increase of 1,210 products from the FY 2004 universe of 10,403 products. The increase consists of 1,150 products associated with FY 2005 REDs, 35 products associated with TREDs, and 25 products that were added as a result of DCI activities and processing for several previously issued REDs and IREDs.

At the end of FY 2005, 4,828 products had product reregistration decisions pending. Some pending products await science reviews, label reviews, or reregistration decisions by EPA. Others are not yet ready for product reregistration actions; they are associated with more recently completed REDs, and their product-specific data are not yet due to be submitted to or reviewed by the Agency. EPA's goal is to complete 450 product reregistration actions during fiscal year 2006.

C. Number and Type of DCIs to Support Product Reregistration by Active Ingredient

1. *DCIs for REDs.* The number and type of Data Call-In requests or DCIs that EPA is preparing to issue under FIFRA section 3(c)(2)(B) to support product reregistration for pesticide active ingredients included in FY 2005 REDs are shown in Table 6.

TABLE 6.—DCIS ISSUED TO SUPPORT PRODUCT REREGISTRATION FOR FY 2005 REDS

Case Name	Case Number	Number of Products Covered by the RED[1]	Number of Product Chemistry Studies Required[2]	Number of Acute Toxicology Studies Required[3]	Number of Efficacy Studies Required
2,4-D	0073	696	31	Not Completed Yet	0
2,4-DB	0196	22	31	48 (6 batches/2 products not batched)	0

TABLE 6.—DCIs ISSUED TO SUPPORT PRODUCT REREGISTRATION FOR FY 2005 REDs—Continued

Case Name	Case Number	Number of Products Covered by the RED[1]	Number of Product Chemistry Studies Required[2]	Number of Acute Toxicology Studies Required[3]	Number of Efficacy Studies Required
4-t Amylphenol and Salts	3016	37	PDCI has not been completed yet	Antimicrobial RED—Acute toxicity batching not completed yet	PDCI has not been completed yet
Ametryn	2010	4	31	24 (4 products not batched)	0
Aquashade	4010	4	31	24 (4 products not batched)	0
Azadioxabicylclooctane	3023	2	PDCI has not been completed yet	Antimicrobial RED—Acute toxicity batching not completed yet	PDCI has not been completed yet
Benzisothiazolin-3-one	3026	47	PDCI has not been completed yet	108 (5 batches/13 not batched)	PDCI has not been completed yet
Chloroneb	0007	12	31	60 (2 batches/8 not batched)	0
Chlorsulfuron	0631	16	31	72 (2 batches/10 products not batched)	0
Dimethipin	3063	5	31	24 (4 products not batched)	0
Dodine	0161	5	31	24 (4 products not batched)	0
Endothall	2245	30	31	36 (2 batches/4 products not batched)	0
Ethofumesate	2265	18	31	66 (3 batches/8 products not batched)	0
Ferbam	2180	7	31	24 (4 products not batched)	0
Fluometuron	0049	19	31	36 (5 batches/1 product not batched)	0
Inorganic Polysulfides	4054	17	31	96 (16 products not batched)	0
Mancozeb	0643	100	31	144 (5 batches/19 products not batched)	0
Maneb	0642	21	31	60 (3 batches/7 products not batched)	0
Metiram	0644	4	31	18 (3 products not batched)	0
Napropamide	2450	15	31	48 (5 batches/3 not batched)	0
Nitrapyrin	0213	4	31	12 (1 batch/1 product not batched)	0

TABLE 6.—DCIs ISSUED TO SUPPORT PRODUCT REREGISTRATION FOR FY 2005 REDs—Continued

Case Name	Case Number	Number of Products Covered by the RED[1]	Number of Product Chemistry Studies Required[2]	Number of Acute Toxicology Studies Required[3]	Number of Efficacy Studies Required
Phenmedipham	0277	16	31	96 (16 products not batched)	0
Pyrazon	2570	3	31	18 (3 products not batched)	0
Sethoxydim	2600	10	31	48 (1 batch/7 not batched)	0
Tau-Fluvalinate	2295	5	31	18 (3 products not batched)	5
Thidiazuron	4092	18	31	42 (4 batches/3 products not batched	0
Trichloromelamine	3144	8	PDCI has not been completed yet	36 (1 batch/5 not batched)	PDCI has not been completed yet
Xylene	3020	5	31	18 (3 products not batched)	0
Total No. of Products		1,150			

[1]The number of registered products containing a pesticide active ingredient can change over time. The product total that appears in the RED document (counted when the RED is signed) may be different than the number of products that EPA is tracking for product reregistration (counted later, when the RED is issued). This table reflects the final number of products associated with each RED, as they are being tracked for product reregistration.

[2]This column shows the number of product chemistry studies that are required for each product covered by the RED.

[3]In an effort to reduce the time, resources, and number of animals needed to fulfill acute toxicity data requirements, EPA "batches" products that can be considered similar from an acute toxicity standpoint. For example, one batch could contain five products. In this instance, if six acute toxicology studies usually were required per product, only six studies (rather than 30 studies) would be required for the entire batch. Factors considered in the sorting process include each product's active and inert ingredients (e.g., identity, percent composition, and biological activity), type of formulation (e.g., emulsifiable concentrate, aerosol, wettable powder, granular), and labeling (e.g., signal word, use classification, precautionary labeling). The Agency does not describe batched products as "substantially similar," because all products within a batch may not be considered chemically similar or have identical use patterns.(Note: FIFRA section 24(c) or Special Local Need (SLN) registrations are not included in the acute toxicity batchings because they are supported by a valid parent product (section 3) registration.)

2. *DCIs for IREDs.* EPA completed no IREDs during FY 2004.

3. *DCIs for TREDs.* There are special cases where product-specific DCIs may be required for TREDs, particularly if the Agency believes that adequate product chemistry or acute toxicity data are not currently on file to support the reregistration of the products associated with the TREDs. The Agency is requiring a product-specific DCI for the following TRED:

TABLE 7.—DCIs ISSUED TO SUPPORT PRODUCT REREGISTRATION FOR FY 2005 TRED

Case Name	Case Number	Number of Products Covered by the TRED[1]	Number of Product Chemistry Studies Required[2]	Number of Acute Toxicology Studies Required[3]	Number of Efficacy Studies Required
Fluazifop-p-butyl	2285	35	31	84 (4 batches/10 not batched)	0
Total No. of Products		35			

[1]The number of registered products containing a pesticide active ingredient can change over time. The product total that appears in the TRED document (counted when the TRED is signed) may be different than the number of products that EPA is tracking for product reregistration (counted later, when the TRED is issued). This table reflects the final number of products associated with each TRED, as they are being tracked for product reregistration.

[2]This column shows the number of product chemistry studies that are required for each product covered by the TRED.

[3]In an effort to reduce the time, resources, and number of animals needed to fulfill acute toxicity data requirements, EPA "batches" products that can be considered similar from an acute toxicity standpoint. For example, one batch could contain five products. In this instance, if six acute toxicology studies usually were required per product, only six studies (rather than 30 studies) would be required for the entire batch. Factors considered in the sorting process include each product's active and inert ingredients (e.g., identity, percent composition, and biological activity), type of formulation (e.g., emulsifiable concentrate, aerosol, wettable powder, granular), and labeling (e.g., signal word, use classification, precautionary labeling). The Agency does not describe batched products as "substantially similar," because all products within a batch may not be considered chemically similar or have identical use patterns.(Note: FIFRA section 24(c) or Special Local Need (SLN) registrations are not included in the acute toxicity batchings because they are supported by a valid parent product (section 3) registration.)

D. Progress in Reducing the Number of Unreviewed, Required Reregistration Studies

EPA has made progress in reviewing scientific studies submitted by pesticide registrants in support of pesticides undergoing reregistration (See Table 8). The percent of studies reviewed by EPA remained constant in FY 2005.

TABLE 8.—REVIEW STATUS OF STUDIES SUBMITTED FOR PESTICIDE REREGISTRATION, END OF FY 2005

Pesticide Reregistration List, per FIFRA Section 4(c)(2)	Studies Reviewed + Extraneous[1]	Studies Awaiting Review	Total Studies Received
List A	11,238 + 589 = 11,827 (87%)	1,788 (13%)	13,615
List B	6,542 + 1,033 = 7,575 (81%)	1,748 (19%)	9,323
List C	2,096 + 334 = 2,430 (84%)	464 (16%)	2,894
List D	1,248 + 133 = 1,381 (86%)	229 (14%)	1,610
Total Lists A–D	21,124 + 2,089 = 23,213 (84.6%)	4,229 (15.4%)	27,442 (100%)

[1]Extraneous studies is a term used to classify those studies that are not needed because the guideline or data requirement has been satisfied by other studies or has changed.

E. Aggregate Status of Tolerances Reassessed

During FY 2005, EPA completed 772 tolerance reassessments and ended the fiscal year with a total of 7,817 tolerance reassessment decisions to date, addressing over 80% of the 9,721 tolerances that require reassessment (See Table 9).

EPA reassessed over 33% of all food tolerances by August 3, 1999, and completed over 66% of all required tolerance reassessment decisions by August 3, 2002, meeting two important statutory deadlines established by the FQPA. EPA's general schedule for tolerance reassessment (62 FR 42020, August 4, 1997) identified three groups of pesticides to be reviewed; this grouping continues to reflect the Agency's overall scheduling priorities. In completing tolerance reassessment, EPA continues to give priority to pesticides in Group 1, the Agency's highest priority group for reassessment.

1. *Aggregate accomplishments through reregistration and other programs.* EPA is accomplishing tolerance reassessment through the registration and reregistration programs; by revoking tolerances for pesticides that have been canceled (many as a result of reregistration); by reevaluating pesticides with pre-FQPA REDs, and through other decisions not directly related to registration or reregistration, described further below. EPA is using the Tolerance Reassessment Tracking System (TORTS) to compile this updated information and report on the status of tolerance reassessment (See Table 9).

TABLE 9.—TOLERANCE REASSESSMENTS COMPLETED POST-FQPA BY FISCAL YEAR, THROUGH FY 2005*

Tolerances Reassessed Through...	During Late FY 96	During FY 1997	During FY 1998	During FY 1999	During FY 2000	During FY 2001	During FY 2002	During FY 2003	During FY 2004	During FY 2005	Total, End of FY 2005
Reregistration/REDs	25	339	277	359	44	46	231	79	87	413	1,897
Tolerance Reassessments/ TREDs	0	0	0	0	0	0	776	14	119	69	970
Registration	0	224	308	340	55	216	200	0	71	--	1,412
Tolerance revocations	3	0	812	513	22	35	545	0	172	75	2,239
Other decisions	0	1	0	233	0	0	905	26	18	165	1,299
Total tolerances reassessed	28	564	1,397	1,445	121	297	2,657	119	467	722	7,817

*Includes corrected counts for some previous years.

i. *Reregistration/REDs.* EPA is using the reregistration program to accomplish much of tolerance reassessment. For each of the tolerance reassessment decisions made through REDs since enactment of the FQPA, the Agency has made the finding as to whether there is a reasonable certainty of no harm, as required by FFDCA. Many tolerances reassessed through reregistration remain the same while others may be raised, lowered, or revoked.

ii. *Tolerance reassessments/TREDs.* Tolerances initially evaluated through REDs that were completed before FQPA was enacted in August 1996 now are being reassessed to ensure that they meet the new FFDCA safety standard. EPA issues these post-RED tolerance reassessment decisions as TREDs. The Agency also issues TREDs summarizing

tolerance reassessment decisions for some developing REDs, for new pesticide active ingredients not subject to reregistration, and for pesticides with import tolerances only. Tolerance reassessments for pesticides that are not part of a cumulative group may be counted at present and are included in the FY 2005 accomplishments.Tolerance reassessments for pesticides that are part of a cumulative group are not included in the Agency's lists of accomplishments. These tolerances will be considered again and their reassessment will be completed after EPA completes a cumulative risk evaluation for the group.

iii. *Registration.* Like older pesticides, all new pesticide registrations must meet the safety standard of FFDCA. Many of the registration applications EPA receives are for new uses of pesticides already registered for other uses. To reach a decision on a proposed new food use of an already registered pesticide, EPA must reassess the aggregate risk of the the existing tolerances, as well as the proposed new tolerances, to make sure there is reasonable certainty that no harm will result to the public from aggregate exposure from all uses.

iv. *Tolerance revocations.* Revoked tolerances represent uses of many different pesticide active ingredients that have been canceled in the past. Some pesticides were canceled due to the Agency's risk concerns. Others were canceled voluntarily by their manufacturers, based on lack of support for reregistration. Tolerance revocations are important even if there are no domestic uses of a pesticide because residues in or on imported commodities treated with the chemical could still present dietary risks that may exceed the FFDCA "reasonable certainty of no harm" standard, either individually or cumulatively with other substances that share a common mechanism of toxicity.

v. *Other reassessment decisions.* In addition to the types of reassessment actions described above, a total of 1,299 additional tolerance reassessment decisions have been made, some for inert ingredient tolerance exemptions, through actions not directly related to registration or reregistration. A list of these other tolerance reassessment decisions with their **Federal Register** citations is available in the docket for this **Federal Register** notice. Other support documents are available in docket ID number EPA–HQ–OPP–2002–0162.

2. *Accomplishments for priority pesticides.* During FY 2005, EPA completed tolerance reassessment decisions for many high priority pesticides in review, including OPs, carbamates, organochlorines, and carcinogens (See Table 10).

TABLE 10.—TOLERANCE REASSESSMENTS COMPLETED FOR PRIORITY PESTICIDES

Pesticide Class	Tolerances to be Reassessed	Reassessed by End of FY 2005
Carbamates	545	317 (58.17%)
Carcinogens	2,008	1,530 (76.20%)
High hazard inerts	5	5 (100%)
Organochlorines	253	253 (100%)
Organophosphates (OPs)	1,691	1,147 (67.83%)
Other	5,219	4,565 (87.47%)
Total	9,721	7,817 (80.41%)

3. *Tolerance reassessment and the organophosphates.* EPA developed an approach for assessing cumulative risk for the OP pesticides as a group, as required by FFDCA, and applied this methodology in conducting an OP cumulative risk assessment. The Agency issued preliminary and revised OP cumulative risk assessment documents in December 2001 and June 2002, available on EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

Through this assessment of the OP pesticides, EPA has evaluated several hundred OP tolerances and found that most require no modification to meet the new FFDCA safety standard. The Agency's regulatory actions on individual OP pesticides during the past few years have substantially reduced the risks of these pesticides. EPA plans to complete IREDs and REDs for the three remaining individual OP pesticides (DDVP, dimethoate, and malathion) in FY 2006.

Most of the reregistration and tolerance reassessment decisions that EPA has made for the OP pesticides will not be considered complete until after the Agency concludes its cumulative evaluation of the OPs. The results of individual OP assessments (IRED and TRED documents) include significant risk mitigation measures, however, and any resulting tolerance revocations are counted as completed tolerance reassessments. In addition, some OP tolerances that make at most a minimal or negligible contribution to the cumulative risk from OP pesticides were counted as reassessed during FY 2002. Once EPA completes a cumulative evaluation of the OPs, the Agency will reconsider individual OP IREDs and TREDs, and complete reregistration eligibility and tolerance reassessment decisions for these pesticides.

F. Applications for Registration - Requiring Expedited Processing; Numbers Approved and Disapproved

By law, EPA must expedite its processing of certain types of applications for pesticide product registration, i.e., applications for end use products that would be identical or substantially similar to a currently registered product; amendments to current product registrations that do not require review of scientific data; and products for public health pesticide uses. During FY 2005, EPA considered and approved the numbers of applications for registration requiring expedited processing (also known as "fast track" applications) shown in Table 11.

TABLE 11.—FAST TRACK APPLICATIONS APPROVED IN FY 2005

Me-too product registrations/Fast track	340
Amendments/Fast track	2,639
Total applications processed by fast track means	2,979

For those applications not approved, the Agency generally notifies the registrant of any deficiencies in the application that need to be corrected or addressed before the application can be approved. Applications may have been withdrawn after discussions with the Agency, but none were formally "disapproved" during FY 2005.

On a financial accounting basis, EPA devoted 31.7 full-time equivalents (FTEs) in FY 2005 to reviewing and processing applications for fast track me-too product registrations and label amendments. The Agency spent approximately $3.56 million in FY 2005 in direct costs (i.e., time on task, not including administrative expenses, computer systems, management overhead, and other indirect costs) on expedited processing and reviews.

G. Future Schedule for Reregistrations

EPA plans to complete tolerance reassessment by August 3, 2006, as required by FFDCA, and also to complete reregistration eligibility decisions for pesticides with food uses by that date. REDs for pesticides that have no food uses or tolerances will be completed by October 3, 2008. The Agency's schedule for completing these decisions is as follows. This schedule also is available on EPA's website at *http://www.epa.gov/pesticides/reregistration/decision_schedule.htm.*

1. *RED, IRED, and TRED Schedules for FY 2006.* List 1 contains pesticides scheduled for Reregistration Eligibility Decisions (REDs), Interim REDs (IREDs), and Reports on FQPA Tolerance Reassessment Progress and Risk Management Decisions (TREDs) in FY 2006. Although this list may change due to the dynamic nature of the review process, EPA is committed to meeting the reregistration and tolerance reassessment deadlines. Any pesticides for which decisions are not completed during the current fiscal year will be rescheduled for decisions the following year.

List 1.—FY 2006 RED, IRED, and TRED Schedule

REDs

ADBAC
Aliphatic alkyl quarternaries
Aliphatic solvents
Alkylbenzene sulfonates
Cacodylic acid
Chlorine dioxide
Copper compounds II
Copper salts
Copper sulfate
Cypermethrin
Dicamba
Dichloran (DCNA)
Ethylene oxide
Glutaraldehyde
Imazapyr
Inorganic chlorates
Inorganic sulfites
Iodine
MCPB
Metaldehyde
Methanearsonic acid, salts (DSMA, MSMA, CAMA)
MGK-264
Mineral acids, weak (sodium carbonate)
PCNB
Permethrin
2-Phenylphenol and salts
Phytophtora palmivora
Piperonyl butoxide
Propiconazole
Propylene oxide
Pyrethrins
Resmethrin
Rotenone
Salicylic acid
TCMB
Triadimefon

IREDs

Aldicarb
Carbofuran
Dichlorvos (DDVP)
Dimethoate
Formetanate HCl
Malathion
Simazine

TREDs

Acetochlor
Amitraz
Azadirachtin
Benzaldehyde
Bitertanol
Boric acid group
CP enolpyruvylshikimate-3-phosphate
Ethephon
Fomesafen
Imazaquin
Methyl bromide
Neomycinphosphotransferase II
Oxytetracycline
Propazine
Sodium cyanide
Streptomycin
Triadimenol
Tridemorph

2. *Post-2006 REDs.* REDs for pesticides with no associated tolerances will be completed in FY 2007 and FY 2008, unless decisions for these pesticides can be completed sooner. Lists 2 and 3 contain pesticides scheduled for REDs in FY 2007 and FY 2008.

List 2.—FY 2007 RED Schedule

2,4-DP
Acrolein
Aliphatic alcohols
Aliphatic esters
Alkyl trimethylenediamine
Allethrin stereoisomers
Amical 48
Antimycin A
Benzoic acid
Bioban-p-1487
Bromonitrostyrene
Chlorflurenol
Chloropicrin
Chromated arsenicals (CCA)
Coal tar/creosote
Copper and oxides
Dazomet
Dikegulac sodium
Formaldehyde
Grotan
Irgasan
MCPP
Methyl bromide
Methyldithiocarbamate salts (metam sodium/metam potassium)
MITC
Octhilinone
Pentachlorophenol

List 3.—FY 2008 RED Schedule

4-Aminopyradine
Busan 77
Flumetralin
Mefluidide
Naphthalene
Naphthalene salts
Nicotine
Organic esters of phosphoric acid (new case)
p-Dichlorobenzene
Polypropylene glycol
Prometon
Siduron
Sodium fluoride
Sodium/potassium dimethyldithiocarbamate salts (case 2180 already counted with ziram)
Sulfometuron methyl
Sumithrin
TBT-containing compounds
Tetramethrin
Triforine

Trimethoxysilyl quats

H. Projected Year of Completion of Reregistrations

EPA generally is conducting reregistration in conjunction with tolerance reassessment, which FFDCA mandates be completed by August 2006. EPA plans to meet the statutory deadline for completing tolerance reassessment, and in so doing, to complete reregistration eligibility decisions for pesticides with tolerances, as required by PRIA. The Agency expects to complete remaining reregistration eligibility decisions for pesticides with no food uses or tolerances during FY 2007 and FY 2008 (by October 3, 2008).Product reregistration, which takes place only after the reregistration eligibility decisions have been completed for the active ingredients, will not likely be completed before 2012.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: June 16, 2006.

Susan B. Hazen,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E6–9956 Filed 6–22–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2006–0516; FRL–8073–8]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from May 22, 2006 to June 2, 2006, consists of the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

DATES: Comments identified by the specific PMN number or TME number, must be received on or before July 24, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) no. EPA–HQ–OPPT–2006–0516, by one of the following methods.

- *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery*: OPPT Document Control Office (DCO, EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID number EPA–HQ–OPPT–2006–0516. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. 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 number EPA–HQ–OPPT–2006–0516. 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 regulations.gov or e-mail. The regulations.gov website is an "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the 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 electronically through regulations.gov or in hard copy at the OPPT Docket, EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., 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 Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280.

FOR FURTHER INFORMATION CONTACT: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division, Office of Pollution Prevention and Toxics (7408M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is

claimed CBI). In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

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

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

v. If you estimate potential costs or burdens, explain how you arrived at the estimate.

vi. Provide specific examples to illustrate your concerns, and suggested alternatives.

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

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

II. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from May 22, 2006 to June 2, 2006, consists of the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs

This status report identifies the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available.

In Table I of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 46 PREMANUFACTURE NOTICES RECEIVED FROM: 05/22/06 TO 06/02/06

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–06–0537	05/19/06	08/16/06	CBI	(G) Surfactant for resins (polymer additives)	(G) Ester of fatty acid with bisphenol a ethoxylate
P–06–0539	05/23/06	08/20/06	CBI	(G) Reactant	(G) Methyl propylhexanol
P–06–0540	05/23/06	08/20/06	CBI	(G) Open non-dispersive(coating)	(G) Aliphatic polyester—polyether polyurethane dispersion
P–06–0541	05/23/06	08/20/06	CBI	(G) Open non-dispersive(coating)	(G) Aromatic thermoplastic polyurethane
P–06–0542	05/23/06	08/20/06	CBI	(G) Plasticizer	(G) Tridecyl phthalate
P–06–0543	05/23/06	08/20/06	CBI	(G) Reactant	(G) methyl propylhexanol
P–06–0544	05/23/06	08/20/06	CBI	(S) Component of antifouling paint	(G) Metal complex, copolymer of substituted acrylic acid, substituted methacrylate, substituted acrylate, and ethylene glycol substituted acrylate alkyl ether.
P–06–0545	05/23/06	08/20/06	CBI	(G) Dispersing agent	(G) Poly(alkoxy), .alpha.-[2,2-bis(hydroxymethyl)alkyl]-.omega.-alkoxy-
P–06–0546	05/23/06	08/20/06	Cytec Surface Specialties Inc.	(S) Resin for paints and coatings	(G) Substituted carbomonocycle, polymer withisocyanate substituted alkyl carbomonocycle, substituted alkenoates, substituted heteromonocycle, alkanedioic acid, alkane diol, reaction products with substituted alkylamine, compounds with substituted alkanol.
P–06–0547	05/23/06	08/20/06	BASF Corporation	(S) Sizing agent	(G) Anionic acrylonitrile-acrylic copolymer dispersion
P–06–0548	05/24/06	08/21/06	DOW Agrosciences	(G) Process intermediate	(G) Substituted trihalomethylpyridine
P–06–0549	05/24/06	08/21/06	CBI	(G) Open, non-dispersive (resin)	(G) Quaternized styrene polymer
P–06–0550	05/24/06	08/21/06	CBI	(G) Open, non-dispersive (resin)	(G) Quaternized styrene polymer
P–06–0551	05/24/06	08/21/06	DOW Agrosciences	(G) Process intermediate	(G) Substituted trihalomethylpyridine chloride

I. 46 PREMANUFACTURE NOTICES RECEIVED FROM: 05/22/06 TO 06/02/06—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–06–0552	05/24/06	08/21/06	Hybrid Plastics, Inc.	(G) Thermoplastic polymer additive (open, non-dispersive)	(S) Tricyclo[7.3.3.15,11]heptasiloxane-3,7,14-triol, 1,3,5,7,9,11,14-heptakis(2-methylpropyl)-
P–06–0553	05/24/06	08/21/06	DOW Agrosciences	(G) Process intermediate	(G) Substituted trihalomethylpyridinethiolate
P–06–0554	05/24/06	08/21/06	DOW Agrosciences	(G) Process intermediate	(G) Substituted aminotriazolopyrimidine
P–06–0555	05/25/06	08/22/06	CBI	(G) Coating to make copper laminate	(G) Phthalic anhydride polymer with benzenediamine, carbonylated furandion and substituted aniline
P–06–0556	05/25/06	08/22/06	CBI	(S) Dispersing agent for crop protection; dispersing agent for home care cleaners	(G) Polyoxyalkylenesilane
P–06–0557	05/25/06	08/22/06	CBI	(S) Intermediate for dispersing agent	(G) Silane hydride
P–06–0558	05/25/06	08/22/06	CBI	(S) Intermediate for dispersing agent	(G) Chlorosilane
P–06–0559	05/30/06	08/27/06	CBI	(G) Prepolymer of polyester urethane	(G) Aromatic saturated copolyester
P–06–0560	05/30/06	08/27/06	CBI	(G) Paper treatment additive	(G) Fluoroalkyl methacrylate copolymer
P–06–0561	05/30/06	08/27/06	CBI	(G) Textile treatment additive	(G) Fluoroalkyl methacrylate copolymer
P–06–0562	05/30/06	08/27/06	CBI	(G) Carpet treatment additive	(G) Fluoroalkyl acrylate copolymer
P–06–0563	05/30/06	08/27/06	CBI	(G) Textile treatment additive	(G) Fluoroalkyl methacrylate copolymer
P–06–0564	05/30/06	08/27/06	CBI	(G) Textile treatment additive	(G) Fluoroalkyl methacrylate copolymer
P–06–0565	05/30/06	08/27/06	CBI	(G) Textile treatment additive	(G) Fluoroalkyl methacrylate copolymer
P–06–0566	05/30/06	08/27/06	CBI	(G) Textile treatment additive	(G) Fluoroalkyl methacrylate copolymer
P–06–0567	05/30/06	08/27/06	CBI	(G) Carpet treatment additive	(G) Fluoroalkyl acrylate copolymer
P–06–0568	05/30/06	08/27/06	CBI	(G) Textile treatment additive	(G) Fluoroalkyl methacrylate copolymer
P–06–0569	05/30/06	08/27/06	CBI	(G) Textile treatment additive	(G) Fluoroalkyl acrylate copolymer
P–06–0570	05/30/06	08/27/06	CBI	(G) Textile treatment additive	(G) Fluoroalkyl methacrylate copolymer
P–06–0571	05/30/06	08/27/06	CBI	(G) Textile treatment additive	(G) Fluoroalkyl methacrylate copolymer
P–06–0572	05/30/06	08/27/06	CBI	(G) Textile treatment additive	(G) Fluoroalkyl methacrylate copolymer
P–06–0573	05/30/06	08/27/06	CBI	(G) Carpet treatment additive	(G) Fluorochemical urethane
P–06–0574	05/30/06	08/27/06	CBI	(G) Tile surface treatment	(G) Fluoroalkyl methacrylate copolymer
P–06–0575	05/30/06	08/27/06	CBI	(G) Paper treatment additive	(G) Fluoroalkyl acrylate copolymer
P–06–0576	05/30/06	08/27/06	CBI	(G) Textile treatment additive	(G) Fluoroalkylacrylate copolymer
P–06–0577	05/30/06	08/27/06	CBI	(G) Paper treatment additive	(G) Fluoroalkyl methacrylate copolymer
P–06–0578	05/30/06	08/27/06	CBI	(G) Paper treatment additive	(G) Fluoroalkyl acrylate copolymer
P–06–0579	05/30/06	08/27/06	CBI	(G) Textile treatment additive	(G) Fluoroalkylacrylate copolymer
P–06–0580	05/30/06	08/27/06	CBI	(G) Textile treatment additive	(G) Fluoroalkyl acrylate copolymer

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

II. 22 NOTICES OF COMMENCEMENT FROM: 05/22/06 TO 06/2/06

Case No.	Received Date	Commencement Notice End Date	Chemical
P–05–0058	05/22/06	05/11/06	(G) Ether amine phosphonate salt

II. 22 NOTICES OF COMMENCEMENT FROM: 05/22/06 TO 06/2/06—Continued

Case No.	Received Date	Commencement Notice End Date	Chemical
P–05–0062	05/22/06	05/11/06	(G) Ether amine phosphonate salt
P–05–0304	05/23/06	05/18/06	(S) 2,4,8,10-tetraoxaspiro[5.5]undecane-3,9-diethanol, .beta.,.beta.,.beta.',.beta.'-tetramethyl-
P–05–0552	05/22/06	05/03/06	(G) Aromatic polyurethane polymer
P–05–0722	05/24/06	04/28/06	(G) Carbon black, hydroxy- and 4-[[2-(sulfooxy)ethyl]substituted]phenyl-modified, sodium salt
P–05–0835	05/19/06	05/09/06	(G) Vinyl homopolymer, salt
P–06–0038	05/24/06	04/30/06	(S) Starch, polymer with 2-propenenitrile, hydrolyzed, potassium salts
P–06–0085	05/30/06	05/19/06	(G) (substituted)-benzenecarboxylic acid,2,2'-[(substituted) bis[imino(substituted)-azo]] bis-,tetramethyl ester
P–06–0104	05/24/06	04/10/06	(G) Substituted sulfonated phenyl azo naphthalene
P–06–0157	05/19/06	04/12/06	(G) Organic acid salt of an alkylalkanolamine
P–06–0158	05/19/06	04/12/06	(G) Organic acid salt of an alkylalkanolamine
P–06–0159	05/19/06	04/12/06	(G) Organic acid salt of an alkylalkanolamine ethoxylate
P–06–0160	05/19/06	04/12/06	(G) Organic acid salt of an ethoxylated alkanolamine
P–06–0161	05/19/06	04/12/06	(G) Organic acid salt of an alkanolamine
P–06–0174	05/30/06	05/17/06	(G) Amine salt of an organic acid
P–06–0244	05/30/06	05/14/06	(G) Isocyanate functional polyester polyether urethane polymer
P–06–0245	05/25/06	05/10/06	(G) Siloxanes and silicones, di-me, 3-hydroxypropyl me, ethers with polyalkylene glycol mono[2-hydroxy-3-[[6-(oxiranylalkoxy)alkyl]oxy]alkyl alkyl-carbomonocyclicdicarboxylate]
P–06–0271	05/31/06	05/22/06	(S) Oils, agathosma ovata
P–06–0292	05/19/06	05/11/06	(G) Olefinic carbamate
P–06–0296	05/19/06	05/13/06	(G) Naphthalenesulfonic acid azo substituted naphthalenesulfonic acid amino substituted triazine amino substituted phenyl azo phenyl sulfonyl compound
P–06–0301	05/19/06	05/16/06	(G) Modified anionic polyacrylamide
P–93–0999	05/24/06	04/27/06	(G) Modified polymer of alkenoic esters and styrene

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: June 8, 2006.

LaRona M. Washington,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. E6–9862 Filed 6–22–06; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Issuance of Technical Bulletin 2006–1

Board Action: Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), as amended, and the FASAB Rules Of Procedure, as amended in April, 2004, notice is hereby given that the Federal Accounting Standards Advisory Board has issued Technical Bulletin 2006–1, *Recognition and Measurement of Asbestos-Related Cleanup Costs.*

The proposed Technical Bulletin is intended to clarify the required reporting of liabilities and related expenses arising from friable and non-friable asbestos-related cleanup costs.

The Technical Bulletin is available on the FASAB Web site at *http://www.fasab.gov/exposure.html*, or by calling 202–512–7350. Respondents are encouraged to comment on any part of the technical bulletin. Written comments are requested by June 30, 2006, and should be sent to:

Wendy M. Comes, Executive Director, Federal Accounting Standards Advisory Board, 441 G Street, NW., Suite 6814, Mail Stop 6K17V, Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: Wendy Comes, Executive Director, 441 G Street, NW., Mail Stop 6K17V, Washington, DC 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Public Law No. 92–463.

Dated: June 20, 2006.

Charles Jackson,

Federal Register Liaison Officer.

[FR Doc. 06–5630 Filed 6–22–06; 8:45 am]

BILLING CODE 1610–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. E6–9483) published on page 35272 of the issue for Monday, June 19, 2006.

Under the Federal Reserve Bank of Atlanta heading, the entry for H Financial of Florida, Inc., Ponte Vedra Beach, Florida, is revised to read as follows:

B. Federal Reserve Bank of Atlanta (Andre Anderson, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. H Financial of Florida, Inc., St. Augustine, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Haven Trust Bank, St. Augustine, Florida.

Comments on this application must be received by July 13, 2006.

Board of Governors of the Federal Reserve System, June 20, 2006.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E6–9937 Filed 6–22–06; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Comment Request

AGENCY: Federal Trade Commission ("Commission" or "FTC").

ACTION: Notice.

SUMMARY: The FTC intends to conduct consumer research to examine the effectiveness of the FTC's current energy labeling requirements for consumer products and obtain information about alternatives to those labels. This activity is part of the Commission's efforts to

examine the current labeling program, as required by section 137 of the Energy Policy Act of 2005 (Pub. L. 109–58). The information collection requirements described below will be submitted to the Office of Management and Budget ("OMB") for review, as required by the Paperwork Reduction Act ("PRA") (44 U.S.C. 3501–3520).

DATES: Comments must be received on or before July 24, 2006.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to "Appliance Labeling Research: No. P064200" to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope and should be mailed or delivered, with two complete copies, to the following address: Federal Trade Commission/Office of the Secretary, Room H–135 (Annex J), 600 Pennsylvania Avenue, NW., Washington, DC 20580. Because paper mail in the Washington area and at the Commission is subject to delay, please consider submitting your comments in electronic form, as prescribed below. However, if the comment contains any material for which confidential treatment is requested, the comment must be filed in paper form, and the first page of the document must be clearly labeled "Confidential." [1] The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible.

Comments filed in electronic form should be submitted by clicking on the following Weblink: *https://secure.commentworks.com/FTC-ApplianceResearch* and following the instructions on the Web-based form. To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the *https://secure.commentworks.com/FTC-ApplianceResearch* weblink. If this notice appears at *http://www.regulations.gov*, you may also file an electronic comment through that Web site. The Commission will consider all comments that regulations.gov forwards to it.

Comments should also be submitted to: Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission. Comments should be submitted via facsimile to (202) 395–6974 because U.S. Postal Mail is subject to lengthy delays due to heightened security precautions.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments will be considered by the Commission and will be available to the public on the FTC Web site, to the extent practicable, at *http://www.ftc.gov*. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy at *http://www.ftc.gov/ftc/privacy.htm*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be addressed to Hampton Newsome, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2889.

SUPPLEMENTARY INFORMATION: Section 324 of the Energy Policy and Conservation Act of 1975 ("EPCA"), 42 U.S.C. 6291–6309, requires the Commission to prescribe labeling rules for the disclosure of estimated annual energy cost or alternative energy consumption information for a variety of products covered by the statute, including home appliances (*e.g.*, refrigerators, dishwashers, air conditioners, and furnaces), lighting, and plumbing products. The Commission's Appliance Labeling Rule ("Rule"), 16 CFR part 305, implements these requirements by directing manufacturers to disclose energy information about major household appliances. This information enables consumers to compare the energy use or efficiency and operating costs of competing models. When initially published in 1979, the Rule applied to eight appliance categories: Refrigerators, refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners, and furnaces. Since then, the Commission has expanded the Rule's coverage to include central air conditioners, heat pumps, fluorescent lamp ballasts, plumbing products, lighting products, pool heaters, and some other types of water heaters.

Section 137 of the Energy Policy Act of 2005 amends the EPCA (42 U.S.C. 6294(a)(2)) to require the Commission to initiate a rulemaking to consider "the effectiveness of the consumer products labeling program in assisting consumers in making purchasing decisions and improving energy efficiency." As part of this effort, the EPCA directs the Commission to consider "changes to the labeling rules (including categorical labeling) that would improve the effectiveness of consumer product labels."

On November 2, 2005, the Commission published an Advance Notice of Proposed Rulemaking ("ANPR") seeking comments on the effectiveness of the FTC's energy labeling regulations for consumer products. 70 FR 66307 (November 2, 2005). In that Notice, the Commission stated that the American Council for an Energy Efficient Environment ("ACEEE") released a report in 2002 summarizing its research on the EnergyGuide label's efficacy and on alternative formats and graphical elements for the label.[2] More recently, the Association of Home Appliance Manufacturers ("AHAM") conducted research that also examined the current label and alternatives.[3] The conclusions reached by AHAM and ACEEE are not in accord. As part of the ongoing rulemaking proceeding concerning the effectiveness of the FTC's energy labeling regulations, the FTC proposes to conduct its own consumer research related to the existing label requirements and possible alternatives.

The FTC's proposed research design builds on the findings and strategies of prior research and on the comments received during the rulemaking proceeding. For example, similar to prior research by ACEEE, the FTC research will include questions designed to understand how well consumers comprehend information presented in different labeling formats. Similar to the research conducted by AHAM, the FTC's proposed study will involve an Internet panel. While the project will build on this prior work, the FTC's proposed study will address several issues not raised in the prior studies and will also consider a label design not addressed in detail by ACEEE or AHAM.

On March 15, 2006 (71 FR 13398), the FTC published a **Federal Register**

[1] Commission Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

[2] Thorne, Jennifer and Egan, Christine, "An Evaluation of the Federal Trade Commission's EnergyGuide Label: Final Report and Recommendations," ACEEE, August 2002. The report is available online at *http://aceee.org/pubs/a021full.pdf*.

[3] AHAM submitted the research results as part of its comments on the ANPR. See AHAM Comments in FTC Matter No. R511994, (January 13, 2006) (*http://www.ftc.gov/os/comments/energylabeling/519870–00016.htm*).

Notice seeking comments from the public concerning the FTC's proposal to conduct consumer research to examine the effectiveness of the FTC's current energy labeling requirements for consumer products and obtain information about alternatives to those labels. No comments were received in response to that Notice. Nonetheless, several comments received as part of the FTC's Energy Labeling Public Workshop held on May 3, 2006, see 71 FR 18023 (April 10, 2006), address the FTC's proposed consumer research for energy labels.[4] The issues raised in such comments are discussed below under the applicable subheadings.

Pursuant to the OMB regulations that implement the PRA (5 CFR part 1320), the FTC is providing this second opportunity for public comment while requesting that OMB grant clearance for the proposed consumer research. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before July 24, 2006.

I. Description of the Collection of Information and Proposed Use

The FTC proposes to collect information from consumers in order to gather data on the effectiveness of current energy labels and possible alternative label designs. The proposed research study will involve a sample of 3,000 individuals who are at least 18 years old and are likely or recent major appliance (*e.g.*, refrigerator or dishwasher) purchasers.[5] A nationwide Internet panel will be used to identify potential respondents and the questionnaire will be administered online. All information will be collected on a voluntary basis.

Subject to OMB approval, the FTC has contracted with Harris Interactive, a consumer research firm that has substantial experience assessing consumer communications using the Internet and other alternative protocols. The contractor will first identify respondents using any relevant pre-existing data in its Internet panel database and any necessary additional screening questions. The screener questions will be designed to ensure that the demographic composition of the sample reasonably matches that of the target population.[6] Allowing for non-response, the screener questions will be asked of approximately 20,000 consumers, as screening that number should enable the FTC to reach its target sample size of 3,000 individuals. In addition, the FTC will pretest the study on 300 individuals to ensure that all questions are easily understood. The pretest participants will be drawn from the sample population.

Respondents will be randomly assigned to one of approximately eight to ten label conditions using a number of different label designs.[7] For example, one group of respondents will view the current EnergyGuide label for four refrigerators with different energy characteristics, whereas, a different group of respondents will view a categorical version of the label for the same refrigerators. Respondents will then answer a series of objective questions about the characteristics of the products described in the labels. Respondents will be asked, for example, to rank the refrigerators in terms of annual operating costs, annual energy use, and energy efficiency. In addition, respondents will likely answer questions about the magnitude of cost, efficiency, or energy use differences between different models and about any differences in product quality communicated by the labels. The proportion of consumers who correctly answer such questions for each condition will be tallied. If there are differences in accuracy rates between label conditions, the direction and statistical significance of these differences will aid FTC staff in assessing whether one type of label design is more comprehensible to consumers than alternative designs.

The proposed study will also include label conditions with the ENERGY STAR logo, *i.e.*, some groups of respondents will view labels bearing the ENERGY STAR logo and some other groups will view the same label without the ENERGY STAR logo. In addition to answering the same questions posed for other label sets (described above), respondents that view the ENERGY STAR label conditions will answer questions about which model or models in the set qualify for ENERGY STAR and the location of the ENERGY STAR logo on the label. The FTC's regulations currently allow manufacturers to place the ENERGY STAR logo on the EnergyGuide label of qualified products (see 16 CFR 305.19). The collection of this information will allow the FTC staff to gather information about the impacts various label designs have on consumer comprehension of energy performance information when labels bear the ENERGY STAR logo.

The proposed study will also include a control no-label (pure information) condition. For this condition, respondents will view information about appliances, but the information would not be in a label format. The purpose of this condition will be to explore what information is likely to be most useful to consumers outside of the EnergyGuide labeling context. Finally, the research study will also likely include a refrigerator condition that combines all full-size refrigerators into one category (*i.e.*, eliminates separate ranges of comparability for configurations such as side-by-side doors and bottom-mounted freezers). This condition will allow the FTC staff to explore the possible effect of changing the current refrigerator categorization system.

In addition to comprehension questions, respondents will be asked questions about their prior experience using EnergyGuide labels in order to assess how useful the current labels have been and to assess how prior experience might impact accuracy rates. Respondents will also be asked general questions about the perceived usefulness of certain types of energy-related information to assess whether labels that feature certain types of information, such as energy usage measured in kWh, categorical measures of energy efficiency, or operating costs, are likely to be useful.

In sum, the label designs will include the current EnergyGuide label design (the control label), a revised version of the current design using a continuous bar graph, a categorical "five-star" label, and a fourth label prominently featuring operating costs (see Figures 1 and 2 at the end of this Notice). The research will also include a version of each label including the ENERGY STAR logo. Thus, the eight primary treatments include: (1) The current label with and without the ENERGY STAR logo, (2) the modified version of the current label with and without the ENERGY STAR logo, (3) the categorical label with and without the ENERGY STAR logo, and (4) the label featuring operating costs with and without the ENERGY STAR logo. The two other treatments that are likely to be used include the no label (pure information) condition and a condition collapsing all of the full size refrigerators into one category.

[4] The comments received as part of the FTC's Energy Labeling Workshop and the Workshop transcript are available at *http://www.ftc.gov/os/publiccomments.htm.*

[5] FTC staff would like to understand the extent to which recent purchasers used current EnergyGuide labels in addition to the likely effects of EnergyGuide labels in the future.

[6] As discussed in Section III.D. of this Notice, if necessary, the FTC will use quota sampling, or another appropriate method determined in conjunction with the contractor, to increase the probability that the selected sample represents the characteristics of the target population in terms of geography, gender, age, education, and race/ethnicity.

[7] Several draft labels appear as Figures 1 and 2 at the end of this Notice.

As discussed above, after being randomly assigned to a condition, respondents will view one type of label format and be given shopping scenarios for two products (*e.g.*, dishwashers and refrigerators). The order of the scenarios will be rotated. The design of the proposed study will allow for approximately 300 respondents per cell.

TABLE 1.—LABEL CONDITIONS AND CELL SAMPLE SIZES FOR APPLIANCE LABEL RESEARCH

Condition	Sample size
Current EnergyGuide Label	300
Current EnergyGuide Label with ENERGY STAR logo	300
Modified Version of Current Label	300
Modified Version of Current Label with ENERGY STAR logo	300
Categorical Label	300
Categorical Label with ENERGY STAR logo	300
Label Featuring Operating Cost	300
Label Featuring Operating Cost with ENERGY STAR logo	300
Pure Information (No Recognizable Label Format)	300
Current EnergyGuide Label with Collapsed Refrigerator Categories	300
Total Sample	3000

II. Labels for the Consumer Research

As discussed above, the FTC plans to present research participants with labels from several hypothetical refrigerator-freezer models and dishwasher models for each specific label design category. The respondents will then answer a series of questions about these models. For example, respondents viewing categorical label designs will see four categorical-type labels representing different models with varying energy performance attributes. The staff plans to use labels that are representative of models on the market but do not necessarily reflect the attributes of actual products. The data that the staff plans to use for these various labels are as follows:

TABLE 2.—DISHWASHER MODELS FOR CONSUMER RESEARCH

	Yearly energy use (kWh/yr)	Energy factor (EF)	Yearly operating cost—electric water heating	Yearly opeating cost—nat. gas water heating	Number of stars
Model A	433	.497	$42	$35	1
Model B	380	.566	37	30	3
Model C	363	.592	36	28	4
Model D	297	.724	29	22	5

TABLE 3.—REFRIGERATOR-FREEZER MODELS FOR CONSUMER RESEARCH

	Yearly energy use (kWh/yr)	Yearly operating cost	Number of stars
Model A	680	$67	1
Model B	600	59	3
Model C	580	57	4
Model D	539	53	5

In calculating the operating costs for these models, the FTC staff used the Department of Energy ("DOE") 2006 Representative Average Unit Costs of $0.0981 per kWh for electricity and $1.415 per therm for natural gas. All dishwasher models are standard-size units. All refrigerator-freezer models feature side-by-side door configurations with through-the-door ice service. The volume of each refrigerator model is assumed to be 23 cubic feet and the adjusted volume for each is assumed to be 27.7 cubic feet. The applicable range of comparability for these refrigerator models is 539 to 698 kWh/yr (see 16 CFR 305, Appendix A8). Models C and D for both appliance categories qualify as ENERGY STAR models.[8]

The system for assigning categorical stars to these models stems from a comparison of the model's energy performance to DOE minimum standards expressed as a percentage above that standard. The FTC staff has developed these categories for the limited purpose of drafting a small number of labels for use in the consumer research. Nevertheless, the staff has considered models currently available on the market in creating these designations. See *http://www.ftc.gov/appliancedata*. For dishwashers, the categories are as follows: 0 to 9.99 % = 1 star; 10 to 19.99% = 2 stars; 20 to 24.99% = 3 stars; 25 to 29.9% = 4 stars; and 30% and over = 5 stars. For refrigerators, the categories are: 0 to 4.99% = 1 star; 5 to 9.99% = 2 stars; 10 to 14.99% = 3 stars; 15% to 19.99 % = 4 stars; and 20% or greater = 5 stars. ENERGY STAR models correspond to four or five stars under this categorical system.

[8] The letter designations "A," "B," "C," and "D" will not be used during the research.

III. Public Comments

As noted above, the FTC did not receive any comments in response to its March 15, 2005 **Federal Register** Notice related to the Paperwork Reduction Act. However, as part of the FTC's Energy Labeling Workshop held on May 3, 2006, the Commission invited and received written comments. Several of these comments directly addressed the FTC's proposed consumer research for energy labels and are discussed below.

A. ENERGY STAR and Consumer Research

Comment: The Consortium on Energy Efficiency ("CEE") urged the FTC to consider the impact that a categorical label would have on consumer understanding of ENERGY STAR.[9] For example, CEE suggested that, in analyzing a categorical label design, the FTC should consider the consumer impacts of equating the ENERGY STAR level consistently with a category 4 (*i.e.*, 4 stars). CEE asked about the impacts of setting different ENERGY STAR categories for different products (*e.g.*, ENERGY STAR is equivalent to category 3 or higher for clothes washers and category 4 or higher for dishwashers). CEE also suggested that the FTC research address the fact that ENERGY STAR does not apply to all products bearing an EnergyGuide label (*e.g.*, water heaters). Finally, CEE urged the FTC to explore how a revised EnergyGuide label would impact voluntary efficiency programs, such as those administered by CEE members.

Discussion: The FTC consumer research will consider the impacts of various label designs on the ENERGY STAR logo. By testing whole groups of labels with and without the ENERGY STAR logo, the research should yield useful information about the effect that various label designs have on consumer comprehension when the designs are coupled with the ENERGY STAR logo. Respondents will also address questions specifically related to the ENERGY STAR logo. For the purposes of the research, the categorical label designs will equate ENERGY STAR with four and five star ratings. Given resource and time constraints, it is necessary for the FTC staff to manage the scope and detail of issues explored in the research. Although the FTC does not plan to address all the scenarios involving the ENERGY STAR logo suggested by CEE, FTC staff believes the planned research will provide useful information about the impacts of the various label designs viewed in conjunction with the ENERGY STAR logo. For similar reasons, the FTC does not plan to address the impact of revised label designs on voluntary efficiency programs in its consumer research. This is an important issue, however, and it is expected that stakeholders will provide their views on this issue as the rulemaking proceeding continues.

B. Purpose of Labeling Program

Comment: ACEEE indicated that the "FTC should make clear its interpretation of Congress's intent for the appliance labeling program prior to conducting research on the program."[10]

Discussion: In promulgating the Appliance Labeling Rule in 1979 (44 FR 66466 (November 19, 1979)), the Commission provided the following statement: "The primary purpose of the Commission's rule is to encourage consumers to comparison-shop for energy-efficient household appliances. By mandating a uniform disclosure scheme for energy consumption information, the rule will permit consumers to compare the energy efficiency of competing appliances and to weigh this attribute against other product features in making their purchasing decisions. If the labeling program works as expected, the availability of this new information should enhance consumer demand for appliances that save energy. In turn, competition should be generated among manufacturers to meet this demand by producing more energy-efficient appliances." FTC staff believes this Commission statement provides sufficient guidance for the proposed consumer research.

C. Importance of Prior Research

Comment: Some commenters urged the FTC to build on prior research results in conducting the consumer research for this proceeding. In particular, ACEEE indicated that to "make the most of the time and resources available, any research conducted should build on the results of prior research on the EnergyGuide labeling program and the design of effective energy labels conducted in the U.S. and abroad." In addition, ACEEE stated that any new EnergyGuide variations "must be tested alongside the primary alternatives identified in earlier research * * *." Both CEE and ACEEE recommend that the FTC review existing domestic and international research before crafting its own research plan. CEE also requested that the FTC develop and publish a timeline that defines the necessary steps in this rulemaking.

Discussion: In developing the consumer research, the FTC staff has considered the prior work in this area including the ACEEE and AHAM research. This prior work has allowed the FTC to narrow its focus to a few specific label designs and several specific questions regarding those label designs. For example, the focus group work conducted by ACEEE has helped to identify concerns that the current label design is wordy, cluttered, and too complex.[11] In addition, the FTC staff has chosen not to pursue several label designs that did not fare well in the ACEEE research such as speedometer and thermometer formats. Moreover, the FTC plans to include both the categorical star label and the revised bar-graph label in its research.[12] These designs figured prominently in both the AHAM and ACEEE research.[13]

The FTC will not conduct the planned consumer research until it receives clearance from the OMB under the Paperwork Reduction Act. The timing of such clearance is not certain. Once clearance is granted and the research is completed, the FTC staff will recommend proposed rule changes, if any, to the Commission. The Commission will issue a **Federal Register** Notice soliciting comment on any proposed rule changes. Congress has directed the Commission to issue any final amendments to the Rule by August 2007.

D. Nationally Representative Research

Comment: One commenter stated that the "sampling technique utilized in quantitative market research must allow the sample to be representative of the census (entire body) of the group being surveyed. In the case of appliance purchasers, the research must be 'nationally representative,' or represent the U.S. adult population."[14]

Discussion: As discussed above, the FTC has contracted with Harris Interactive to administer the study. The sample for the study will be drawn from Harris Interactive's existing Internet panel, which has more than 4 million members throughout the nation. The panel is derived from a variety of

[9] Consortium for Energy Efficiency Comments in FTC Matter No. P064201 (May 17, 2006), pp. 1–3 (hereinafter "CEE Comments").

[10] American Council for an Energy-Efficienty Economy Comments in FTC Matter No. P064201 (May 17, 2006) (hereinafter "ACEEE Comments").

[11] See Thorne and Eagan, supra n. 3.

[12] See Figures 1 and 2 at the end of this Notice.

[13] The FTC staff is also aware of studies that have been conducted in other countries. See, *e.g.*, Collaborative Labeling and Appliance Standards Program (CLASP) Comments in FTC Matter No. R511994 (Jan. 13, 2006).

[14] Whirlpool Comments in FTC Matter No. P064201.

convenience sampling procedures, rather than true probability sampling techniques. The sample for this research will therefore not be nationally representative in the classic sense. However, Harris Interactive has studied the relationship between samples from its Internet panel and samples collected using more traditional probability sampling techniques. Based on these studies, Harris has developed procedures to ensure that differences between the results of Harris' Internet panel studies, and studies based on true probability samples of the nation, are minimized. More specifically, Harris has used a variety of techniques, including demographic weighting, propensity scoring, and quota sampling in order to obtain accurate projections of national sentiment based on samples drawn from its Internet panel. Accordingly, FTC staff will work with Harris to ensure that the sample is as representative of the nation as possible. At the same time, the FTC staff recognizes that there may be some limitations in the use of an Internet panel, rather than a national probability sample, and plans to discuss such issues in any analysis of the data and reports of the findings.

E. Percentage Label and Cost Label

Comment: As part of its Energy Labeling Workshop, the FTC sought comment on an alternative label design that compared a model's energy efficiency to DOE minimum standards in the form of a percentage. See 71 FR 18023. Several workshop participants raised concerns that percentage information may be confusing to consumers, inadequately distinguish the energy efficiency of some products (such as water heaters), and create complications as DOE minimum standards change over time.[15] Conversely, several workshop participants suggested that operating costs is a measure that is easy for consumers to understand.[16] Indeed, one written comment suggested that the FTC consider such a label and provided an example.[17]

Discussion: Given these concerns, FTC staff is not planning to use the percentage label design in its proposed consumer research. In lieu of testing the percentage label, FTC staff is planning to consider a design that focuses on operating cost as the primary descriptor (see Figures 1 and 2 at the end of this Notice). Unlike the current label design, which provides information on energy use for some products and energy efficiency for others, operating costs provide information that is consistent across all labels. At the same time, FTC staff recognizes that the cost information can create concerns if the fuel prices (*e.g.*, national electricity rates or natural gas prices) used to calculate label information change frequently. Under the current Rule, the FTC changes the fuel costs only when the ranges for a particular product change. This means that the ranges (and thus the fuel rates) for most products change on an irregular basis (usually once every several years). At the Workshop, one participant suggested that the FTC change the underlying fuel costs used to calculate such information once every several years on a regular basis.[18] Such an approach could minimize the potential problems associated with frequent fuel rate changes. FTC staff intends to consider this issue during the underlying rulemaking process.

F. Miscellaneous Comments

Comment: CEE suggested that the FTC consider whether consumers find certain elements of the categorical or continuous labels confusing or redundant. CEE also suggested that the FTC explore the consumer impacts of limiting the number of products that qualify for the highest rating for a categorical label system.

Discussion: The FTC's proposed research will ask consumers to conduct a series of tasks related to a group of labels. This should provide data about the effectiveness of the alternative labels, including whether they convey accurate information or cause confusion. Given resource and time constraints, the research will not directly address the impacts of limiting the number of products that qualify for the highest rating for a categorical system. Commenters may submit views on such impacts.

Comment: CEE asked whether the research would address the impacts on consumer comprehension of replacing annual operating cost information with lifecycle costs (which the FTC staff assumes to include factors such as emissions of air pollutants associated with a product's manufacture and use).

Discussion: The FTC staff does not plan to consider lifecycle cost in the consumer research. Under the EPCA (42 U.S.C. 6294), the disclosures on EnergyGuide labels must be derived from DOE test procedures. It is the FTC staff's understanding that such test procedures do not contain information about lifecycle costs such as emissions of air pollutants and carbon dioxide. Accordingly, the consumer research will focus on alternative label designs that contain information readily provided by existing DOE test procedures such as annual operating cost and electricity use.

IV. Estimated Hours Burden

As discussed above, allowing for non-response, screener questions will be asked of approximately 20,000 respondents in order to obtain the FTC's target sample size of 3,000 individuals who are at least 18 years old and are likely major appliance purchasers. FTC staff estimates that it will take consumers one minute to respond to the screener questions. Thus, the total burden related to the screener questions will be approximately 333 hours (20,000 respondents × 1 minute).

The FTC also intends to pretest the consumer questionnaires on approximately 300 respondents to ensure that all questions are easily understood. The FTC staff estimates that conducting the pretest will take approximately 20 minutes on average per person, resulting in a total of approximately 100 burden hours (300 respondents × 20 minutes). Although the target sample is 3,000 individuals, the procedures used by the contractor may yield responses from a slightly higher number of individuals. Accordingly, using a conservative estimate of 3,200 individuals, the FTC staff further estimates that participating in the study will require an additional 1067 hours as a whole (3,200 respondents × 20 minutes). Thus, the total burden hours for the proposed study will be approximately 1,500 hours (333 hours + 100 hours + 1067 hours).

V. Estimated Cost Burden

The cost per respondent should be negligible. Participation is voluntary and will not require start-up, capital, or labor expenditures by respondents.

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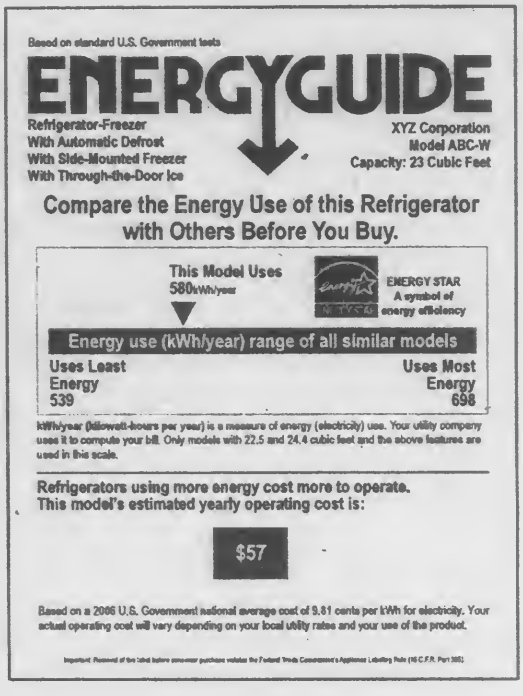
[15] See, *e.g.*, Energy Labeling Workshop Transcript (May 3, 2006) at pp. 56–61, and 82 ("Workshop Transcript") available at *http://www.ftc.gov/os/comments/energylabeling-workshop/060503wrkshoptrnscript.pdf;* Edison Electric Institute Comments in FTC Matter No. P064201 (May 17, 2006).

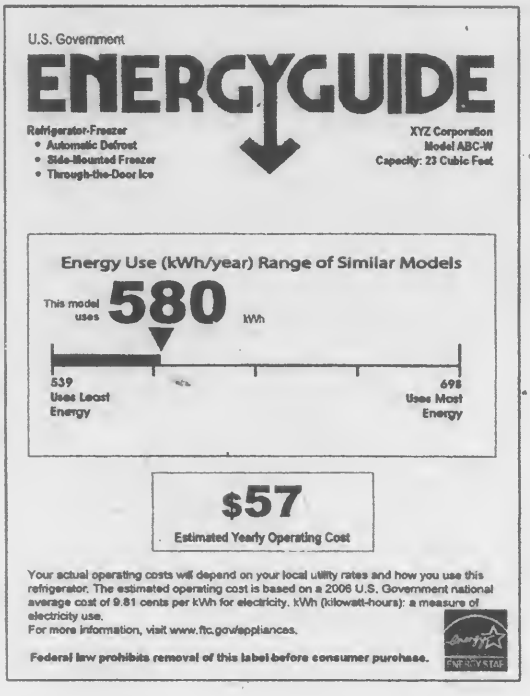
[16] See Workshop Transcript at 125–126. One written comment suggested that the FTC consider such a label and provided an example.

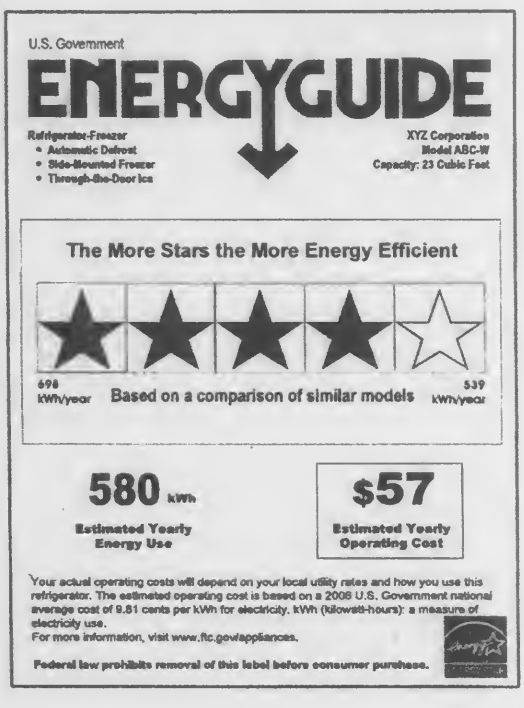
[17] Whirlpool Corporation Comments in FTC Matter No. P064201 (May 17, 2006).

[18] See Workshop Transcript at 133.

Figure 1: Refrigerator Labels







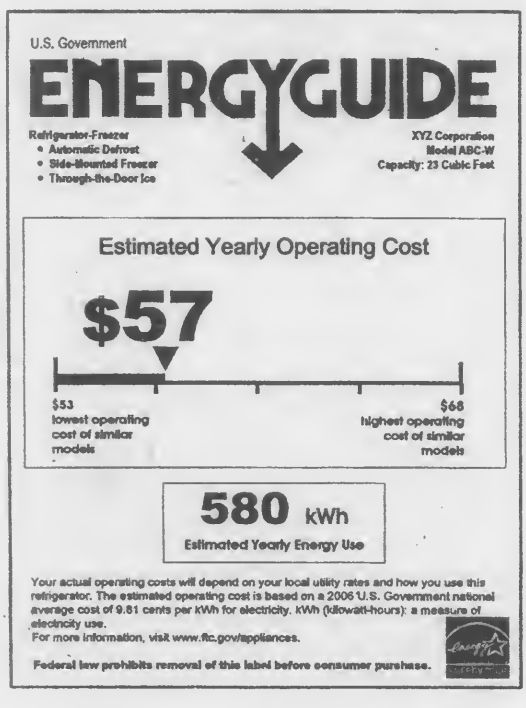
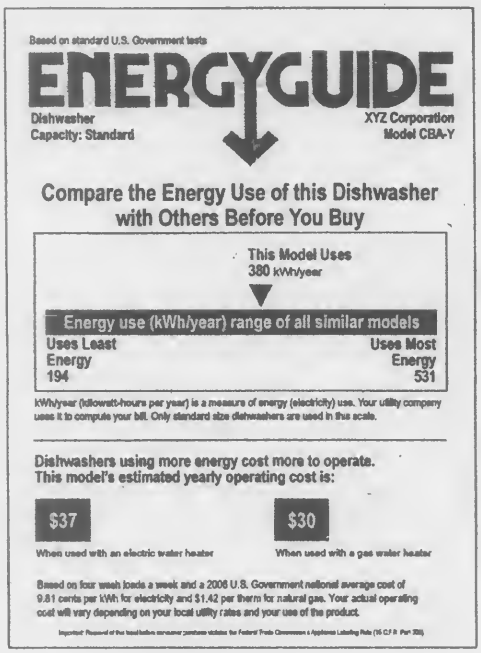
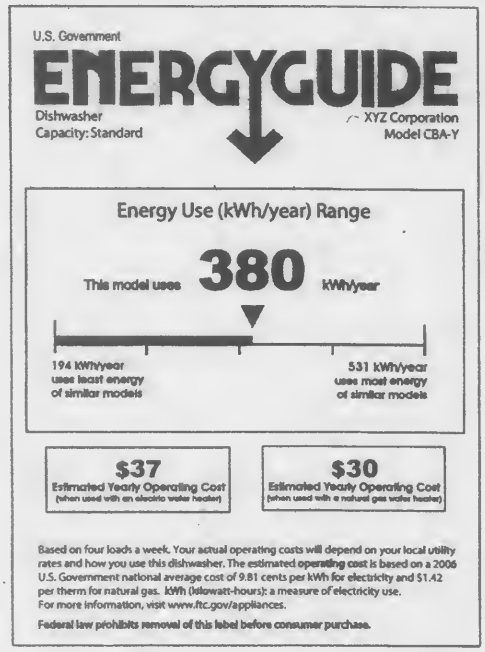
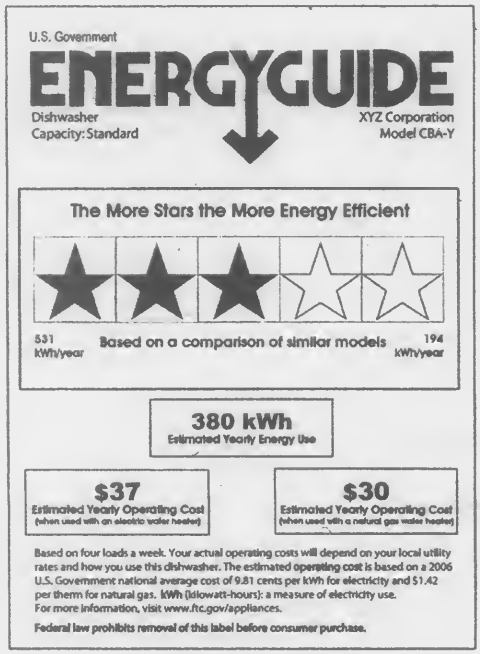
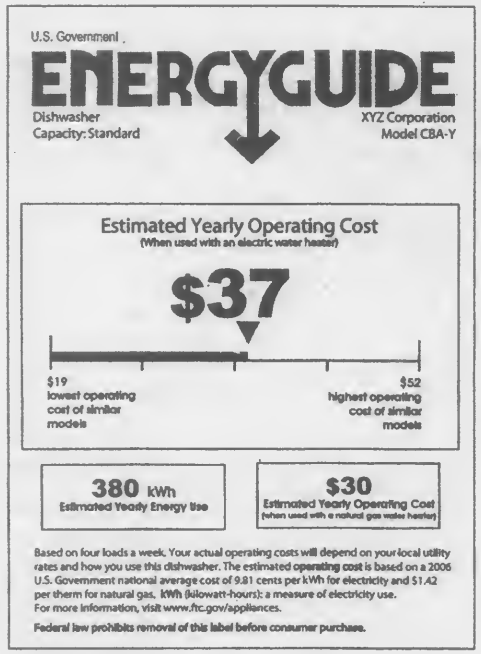


Figure 2: Dishwasher Labels









John D. Graubert,

Acting General Counsel.

[FR Doc. 06–5631 Filed 6–22–06; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-06–0603]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Information Network (REACH IN)—Extension (0920–0603)—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Racial and Ethnic Approaches to Community Health 2010 (REACH 2010) currently funds forty local coalitions to establish community based programs and culturally appropriate interventions to eliminate racial and ethnic health disparities. Two previously funded grantees also retain access to the system. Communities served by REACH 2010 include: African American, American Indian, Hispanic American, Asian American, and Pacific Islander. These communities can select among infant mortality, deficits in breast and cervical cancer screening and management, cardiovascular diseases, diabetes, HIV/AIDS, and deficits in childhood and adult immunizations to be the focus of their interventions. Guided by logic models, each community articulates goals, objectives, and related activities; tracks whether goals and objectives are met, ongoing, or revised; and evaluates all program activities. This information is then entered into the REACH Information Network (REACH IN). REACH IN is a customized Internet-based support system that allows REACH 2010 grantees to perform remote data entry and retrieval of data.

This support system is designed to create on-demand graphs and reports of grantees' activities and accomplishments, monitor progress toward the achievement of goals and objectives, and share and synthesize information across grantees' activities. Both quantitative and qualitative analyses can be performed. These analyses relate primarily to three stages of the REACH 2010 logic model: Capacity building, targeted actions (interventions), and community and systems change and change among change agents. Users are supported with technical assistance and training, covering the usage of the system from a content/project goals perspective, and technical operations.

The annualized estimated burden is based on 42 respondents, including 40 currently funded grantees and two that were funded previously who retain access to the system. It is estimated that they each use the system four times a year to enter data, each data entry taking about 30 minutes. There are no costs to respondents except their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)	Total burden hours
REACH 2010 grantees	42	4	30/60	84

Dated: June 15, 2006.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E6–9919 Filed 6–22–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–06–0214]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the

proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

National Health Interview Survey (NHIS) 2007–2009, (OMB No. 0920–0214)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k) authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on the extent and nature of illness and disability of the population of the United States.

The annual National Health Interview Survey is a major source of general statistics on the health of the U.S. population and has been in the field every year since 1957. This household-based survey collects demographic and health-related information on a nationally representative sample of households throughout the country. The survey has three modules: The family module collects information on everyone in the family; the sample adult module collects more detailed information on a randomly selected adult; and the sample child module collects information on a randomly selected child (in households with children). Information is collected using computer assisted personal interviews (CAPI). A core set of data is collected each year while sponsored supplements vary from year to year. In addition to the core data collection, in 2007 there will be two new supplements, which will provide additional data on complementary and alternative medicine (including questions on topics such as acupuncture, chiropractic or osteopathic manipulation, meditation, natural herbs, and yoga) and on hearing disorders (such as hearing loss and tinnitus). These supplements are sponsored by the National Center on Complementary and Alternative Medicine and the National Institute on Deafness and Other Communication Disorders, both parts of the National Institutes of Health.

In accordance with the 1995 initiative to increase the integration of surveys within the Department of Health and Human Services, respondents to the NHIS serve as the sampling frame for the Medical Expenditure Panel Survey conducted by the Agency for Healthcare Research and Quality. The NHIS has long been used by government, university, and private researchers to evaluate both general health and specific issues, such as cancer, diabetes, and access to health care. It is a leading source of data for the Congressionally-mandated "Health US" and related publications, as well as the single most important source of statistics to track progress toward the National Health Promotion and Disease Prevention Objectives, "Healthy People 2010."

There is no cost to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)	Total burden hours
Family member	39,000	1	21/60	13,650
Sample adult	32,000	1	42/60	22,400
Sample child	13,000	1	15/60	3,250
Total				39,300

Dated: June 16, 2006.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E6–9920 Filed 6–22–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–R–296]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Home Health Advance Beneficiary Notice (HHABN) and Supporting Regulations in 42 CFR 411.404 and 484.10(a) and (e).; *Use:* Home health agencies (HHAs) are required to provide written notice to Medicare beneficiaries under various circumstances involving the initiation, reduction, or termination of services. The notice is designed to ensure that beneficiaries receive complete and useful information to enable them to make informed consumer decisions. Consistent with the decision of the U.S. Court of Appeals (2nd Circuit) in the *Lutwin* v. *Thompson*, HHAs must now also issue HHABNs in a broader set of circumstances in conjunction with their responsibilities under the Home Health Conditions of Participation (HH COPs). The HHABN instructions explain when the newly revised HHABN should be issued, and include additional changes to simplify notice policy for HHAs. The notice must be issued timely and provide clear and accurate information about the specified services and, if

applicable, the cost of potentially non-covered services when Medicare denial of payment is expected by the HHA. *Form Number:* CMS–R–296 (OMB#: 0938–0781); *Frequency:* Recordkeeping, Third party disclosure and Reporting: On occasion, Other: As needed; *Affected Public:* Individuals or households, Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 7,612; *Total Annual Responses:* 10,351,703; *Total Annual Hours:* 780,918.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

Written comments and recommendations for the proposed information collections must be mailed or faxed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Carolyn Lovett, New Executive Office Building, Room 10235, Washington, DC 20503. Fax Number: (202) 395–6974.

Dated: June 20, 2006.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 06–5621 Filed 6–20–06; 1:10 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–1957, CMS–R–72, CMS–10175 and CMS–R–05]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* SSO Report of State Buy-in Problem and Supporting Regulations in 42 CFR 407.40; *Use:* Under the State Buy-In program, States enroll certain groups of needy people under the Part B Supplementary Medical Insurance (SMI) Program and pay their premiums. The purpose of the "buy-in" is to allow the States to provide SMI protection to certain groups of needy individuals as part of its total assistance plan. Generally, States "buy-in" for individuals who are categorically needy under Medicaid and meet the eligibility requirements for Medicare Part B. States can also include in their buy-in agreement those eligible for medical assistance only. The CMS–1957 is used in the resolution of beneficiary complaints regarding State buy-in. This form facilitates the coordination of efforts between the SSO, State Medicaid Agencies, and CMS in the resolution of a beneficiary's State buy-in problem; *Form Number:* CMS–1957 (OMB#: 0938–0035); *Frequency:* Reporting—On occasion; *Affected Public:* Federal government, Individuals or Households, and State, Local, and Tribal governments; *Number of Respondents:* 6,600; *Total Annual Responses:* 6,600; *Total Annual Hours:* 2,366.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Information Collection Requirements in 42 CFR 478.18, 478.34, 478.36, 478.42, QIO Reconsiderations and Appeals; *Use:* In the event that a beneficiary, provider, physician, or other practitioner does not agree with the initial determination of a Quality Improvement Organization (QIO) or a QIO subcontractor, it is within that party's rights to request reconsideration. The information collection requirements 42 CFR 478.18, 478.34, 478.36, and 478.42, contain procedures for QIOs to use in reconsideration of initial determinations. The information requirements contained in these regulations are on QIOs to provide information to parties requesting the reconsideration. These parties will use the information as guidelines for appeal rights in instances where issues are actively being disputed; *Form Number:* CMS–R–72 (OMB#: 0938–0443); *Frequency:* Reporting—On occasion; *Affected Public:* Individuals or Households and Business or other for-profit institutions; *Number of Respondents:* 2,590; *Total Annual Responses:* 5,228; *Total Annual Hours:* 2,822.

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Certification Statement for Electronic File Interchange Organizations (EFIOS) that Submit National Provider Identifier (NPI) Data to the National Plan and Enumeration System; *Use:* The EFI process is designed to allow organizations to submit NPI application information for large numbers of providers in a single file. Once it has obtained and formatted the necessary provider data, the EFIO will electronically submit the file to NPPES for processing. As each file can contain up to approximately 100,000 records, or provider applications, the EFI process greatly reduces the paperwork and overall administrative burden associated with enumerating providers; *Form Number:* CMS–10175 (OMB#: 0938–0984); *Frequency:* Other—One-time; *Affected Public:* Business or other for-profit, and Not-for-profit institutions; *Number of Respondents:* 1000; *Total Annual Responses:* 1000; *Total Annual Hours:* 3000.

4. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Physician Certifications/Recertifications in Skilled Nursing Facilities (SNFs) Manual Instructions and Supporting Regulations in 42 CFR 424.20; *Use:* Regulations at 42 CFR 424.20 require SNFs to keep record of physician certifications and recertifications of information such as the need for care and services, estimated duration of the SNF stay, and plan for home care. As a condition for Medicare Part A payment for post-hospital skilled nursing facility (SNF) services, the Medicare program requires that a physician certify and periodically recertify that a beneficiary requires an SNF level of care. The physician certification and recertification is intended to ensure that the beneficiary's need for services has been established and then reviewed and updated at appropriate intervals; *Form Number:* CMS–R–05 (OMB#: 0938–0454);

Frequency: Recordkeeping and Reporting—On occasion; *Affected Public:* State, Local or Tribal governments, Individuals or Households, Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 2,458,549; *Total Annual Responses:* 981,642; *Total Annual Hours:* 547,578.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

Written comments and recommendations for the proposed information collections must be mailed or faxed by July 24, 2006 directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Carolyn Lovett, New Executive Office Building, Room 10235, Washington, DC 20503. Fax Number: (202) 395–6974.

Dated: June 14, 2006.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E6–9841 Filed 6–22–06; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10199, CMS–R–247, and CMS–R–38]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Data Collection for Medicare Facilities Performing Carotid Artery Stenting with Embolic Protection in Patients at High Risk for Carotid Endarterectomy; *Use:* CMS provides coverage for carotid artery stenting (CAS) with embolic protection for patients at high risk for carotid endarterectomy and who also have symptomatic carotid artery stenosis between 50% and 70% or have asymptomatic carotid artery stenosis ≥ 80% in accordance with the Category B IDE clinical trials regulation (42 CFR 405.201), a trial under the CMS Clinical Trial Policy (NCD Manual § 310.1, or in accordance with the National Coverage Determination on CAS post approval studies (Medicare NCD Manual 20.7). Accordingly, CMS considers coverage for CAS reasonable and necessary {section 1862 (A)(1)(a) of the Social Security Act}. However, evidence for use of CAS with embolic protection for patients at high risk for carotid endarterectomy and who also have symptomatic carotid artery stenosis ≥ 70% who are not enrolled in a study or trial is less compelling. To encourage responsible and appropriate use of CAS with embolic protection, CMS issued a *Decision Memo for Carotid Artery Stenting* on March 17, 2005, indicating that CAS with embolic protection for patients at high risk for carotid endarterectomy and who also have symptomatic carotid artery stenosis ≥ 70% will be covered only if performed in facilities that have been determined to be competent. In accordance with this criteria CMS considers coverage for CAS reasonable and necessary {section 1862(A)(1)(a) of the Social Security Act}. *Form Number:* CMS–10199 (OMB#: 0938–NEW); *Frequency:* Reporting—On occasion; *Affected Public:* Business or other for-profit, Not-for-profit institutions; *Number of Respondents:* 1,000; *Total Annual Responses:* 1,000; *Total Annual Hours:* 500.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Expanded Coverage for Diabetes Outpatient Self-Management Training Services and Supporting Regulations Contained in 42 CFR 410.141, 410.142, 410.143, 410.144, 410.145, 410.146, 414.63; *Use:* According to the National Health and Nutrition Examination Survey (NHANES), as many as 18.7 percent of Americans over age 65 are at risk for developing diabetes. The goals in the management of diabetes are to achieve normal metabolic control and reduce the risk of micro- and macro-vascular complications. Numerous epidemiologic and interventional studies point to the necessity of maintaining good glycemic control to reduce the risk of the complications of diabetes. In expanding the Medicare program to include diabetes outpatient self-management training services, the Congress intended to empower Medicare beneficiaries with diabetes to better manage and control their conditions. The Conference Report indicates that the conferees believed that "this provision will provide significant Medicare savings over time due to reduced hospitalizations and complications arising from diabetes." (H.R. Conf. Rep. No. 105–217, at 701 (1997)). *Form Number:* CMS–R–247 (OMB#: 0938–0818); *Frequency:* Recordkeeping and Reporting—On occasion; *Affected Public:* Business or other for-profit institutions; *Number of Respondents:* 2,008; *Total Annual Responses:* 8,032; *Total Annual Hours:* 88,519.

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Conditions of Certification for Rural Health Clinics and Supporting Regulations in 42 CFR 491.9, 491.10, 491.11; *Use:* The Rural Health Clinic (RHC) conditions of participation are based on criteria prescribed in law and are designed to ensure that each facility has a properly trained staff to provide appropriate care and to assure a safe physical environment for patients. The Centers for Medicare and Medicaid Services (CMS) uses these conditions of participation to certify RHCs wishing to participate in the Medicare program. These requirements are similar in intent to standards developed by industry organizations such as the Joint Commission on Accreditation of Hospitals, and the National League of Nursing/American Public Association and merely reflect accepted standards of management and care to which rural health clinics must adhere. *Form Number:* CMS–R–38 (OMB#: 0938–0334); *Frequency:* Recordkeeping and Reporting—Annually and upon initial application for Medicare approval; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 3,674; *Total*

Annual Responses: 3,674; *Total Annual Hours:* 8,816.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received at the address below, no later than 5 p.m. on August 22, 2006.

CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development—B, Attention: William N. Parham, III, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: June 14, 2006.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E6–9842 Filed 6–22–06; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–2228–FN]

Medicare and Medicaid Programs; Denial of the TÜV Healthcare Specialists Request for Deeming Authority for Hospitals

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Final notice.

SUMMARY: This final notice announces our decision to deny TÜV Healthcare Specialists' (TÜVHS) request for deeming authority for hospitals that wish to participate in the Medicare and Medicaid programs.

EFFECTIVE DATE: This final notice is effective June 23, 2006.

FOR FURTHER INFORMATION CONTACT: Amber MacCarroll, (410) 786–6773.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services in a hospital provided certain requirements are met. The regulations specifying the Medicare conditions of participation (CoP) for hospitals are located at 42 CFR part 482. These conditions implement section 1861(e) of the Social Security Act (the Act), which specifies the conditions that a hospital program must meet in order to participate in the Medicare program. Regulations concerning provider agreements are at 42 CFR part 489, and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR part 488.

Generally, in order to enter into an agreement with CMS, a hospital must first be certified by a State survey agency as complying with the conditions or requirements set forth in part 482 of our regulations. Then, the hospital is subject to regular surveys by a State survey agency to determine whether it continues to meet these requirements. There is an alternative, however, to surveys by State agencies.

Section 1865(b)(1) of the Act provides that, if a provider entity demonstrates through accreditation by an approved national accreditation organization that all applicable Medicare conditions are met or exceeded, we will "deem" those provider entities as having met the requirements. Accreditation by an accreditation organization is voluntary and is not required for Medicare participation.

If an accreditation organization is recognized by the Secretary as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting body's approved program would be deemed to meet the Medicare conditions. A national accreditation organization applying for approval of deeming authority under part 488, subpart A must provide us with reasonable assurance that the accreditation organization requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions.

The Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and the American Osteopathic Association (AOA) are currently the only approved national accreditation organizations for hospitals.

II. Deeming Applications Review Process

Section 1865(b)(2) of the Act and our regulations at § 488.8(a) require that our findings concerning review and approval of a national accrediting organization's requirements consider, among other factors, the applying accreditation organization's requirements for accreditation, including health and safety standards; survey procedures; resources for conducting required surveys; capacity to furnish information for use in enforcement activities; monitoring procedures for provider entities found not in compliance with the conditions or requirements; and ability to provide us with the necessary data for validation.

Section 1865(b)(3)(A) of the Act provides a statutory timetable to ensure that our review of deeming applications is conducted in a timely manner. The Act provides us with 210 calendar days after the date of receipt of an application to complete our survey activities and application review process. At the end of the 210-day period, we must publish an approval or denial of the application.

III. Proposed Notice

On January 27, 2006, we published a proposed notice (71 FR 4584) announcing TÜV Healthcare Specialists' (TÜVHS') request for approval as a deeming organization for hospitals. In the proposed notice, we detailed our evaluation criteria as set forth in section 1865(b)(2) of the Act and our regulations at § 488.8 (Federal review of accreditation organizations). Our review and evaluation of TÜVHS was conducted in accordance with, but not necessarily limited to, the following factors:

- The equivalency of TÜVHS' standards for hospitals as compared with our Medicare hospital conditions of participation; and
- TÜVHS' survey process to determine the following:

—The composition of the survey team, surveyor qualifications, and the ability of the organization to provide continuing survey or training.

—The comparability of TÜVHS' survey procedures to those of State agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.

—TÜVHS' processes and procedures for monitoring providers or suppliers found out of compliance with TÜVHS program requirements. These monitoring procedures are used only when TÜVHS identifies noncompliance. If noncompliance is identified through validation reviews, the survey agency monitors corrections as specified at § 488.7(d).

—TÜVHS' capacity to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.

—TÜVHS' capacity to provide us with electronic data in ASCII comparable code, and reports necessary for

effective validation and assessment of the organization's survey process.
—The adequacy of TÜVHS' staff and other resources, and its financial viability.
—TÜVHS' capacity to adequately fund required surveys.
—TÜVHS' policies with respect to whether surveys are announced or unannounced.
—TÜVHS' agreement to provide us with a copy of the most current accreditation survey together with any other information related to the survey as we may require (including corrective action plans).

IV. Analysis of and Response to Public Comments on the Proposed Notice

We received 12 comments in response to the proposed notice published on January 27, 2006. These comments were from hospitals, professional organizations, an accrediting body and other individuals. Summaries of the public comments we received and our responses to those comments are set forth below.

Comment: The majority of commenters expressed support for increased competition in the hospital accreditation arena.

Response: We appreciate the commenters' support and agree that the accreditation process can benefit from increased competition. CMS must, however, ensure that any national accreditation organization approved for deeming authority meets our requirements and can provide us with reasonable assurance that its accredited hospitals are in compliance with accreditation standards that meet or exceed the Medicare CoPs.

Comment: A few commenters expressed support specifically for the approval of TÜVHS' request for deeming authority. Conversely, one commenter expressed concerns about the TÜVHS accreditation process and provided specific technical comments regarding the ISO 9001 certification process.

Response: Based on our findings from the review of TÜVHS' application, TÜVHS has not demonstrated that it meets our requirements for approval as a national accreditation organization. Also, TÜVHS did not provide us with reasonable assurance that its accredited hospitals are in compliance with accreditation standards that meet or exceed the Medicare CoPs.

Comment: One commenter asked us to consider the apparent conflict of interest that is posed by TÜVHS offering consultative services to prepare hospitals for JCAHO's accreditation reviews, while requesting deeming authority for Medicare participating hospitals, which would be in direct competition to JCAHO.

Response: We agree that it is an unusual situation to have an organization apply for deeming authority while continuing to offer consultative services to prepare hospitals for accreditation surveys that are conducted by another accreditation organization. Because we are not granting deeming authority to TÜVHS at this time, the suggested conflict of interest is not relevant.

V. Provisions of the Final Notice

Based on the findings from our review, using the evaluation criteria described above, we determined that the TÜVHS accreditation requirements for hospitals, including the accreditation standards, standards application and interpretation, survey procedures, and corrective action requirements, are not equivalent to the CMS requirements for hospitals. Additionally, TÜVHS has not provided reasonable assurance that the hospitals they accredit are in compliance with accreditation standards that are at least as stringent as the Medicare Hospital CoPs.

The findings from the review, as described above, preclude us from granting TÜVHS deeming authority for hospitals.

VI. Executive Order 12866 Statement

In accordance with the provisions of Executive Order 12866, this regulation was not reviewed by the Office of Management and Budget.

Authority: Section 1865 of the Social Security Act (42 U.S.C. 1395bb)

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773, Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: June 9, 2006.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. E6–9907 Filed 6–22–06; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–9035–N]

Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—January Through March 2006

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice lists CMS manual instructions, substantive and interpretive regulations, and other **Federal Register** notices that were published from January 2006 through March 2006, relating to the Medicare and Medicaid programs. This notice provides information on national coverage determinations (NCDs) affecting specific medical and health care services under Medicare. Additionally, this notice identifies certain devices with investigational device exemption (IDE) numbers approved by the Food and Drug Administration (FDA) that potentially may be covered under Medicare. This notice also includes listings of all approval numbers from the Office of Management and Budget for collections of information in CMS regulations. Finally, this notice includes a list of Medicare-approved carotid stent facilities.

Section 1871(c) of the Social Security Act requires that we publish a list of Medicare issuances in the **Federal Register** at least every 3 months. Although we are not mandated to do so by statute, for the sake of completeness of the listing, and to foster more open and transparent collaboration efforts, we are also including all Medicaid issuances and Medicare and Medicaid substantive and interpretive regulations (proposed and final) published during this 3-month time frame.

FOR FURTHER INFORMATION CONTACT: It is possible that an interested party may have a specific information need and not be able to determine from the listed information whether the issuance or regulation would fulfill that need. Consequently, we are providing information contact persons to answer general questions concerning these items. Copies are not available through the contact persons. (See Section III of this notice for how to obtain listed material.)

Questions concerning items in Addendum III may be addressed to Timothy Jennings, Office of Strategic

Operations and Regulatory Affairs, Centers for Medicare & Medicaid Services, C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–2134.

Questions concerning Medicare NCDs in Addendum V may be addressed to Patricia Brocato-Simons, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–0261.

Questions concerning FDA-approved Category B IDE numbers listed in Addendum VI may be addressed to John Manlove, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–13–04, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–6877.

Questions concerning approval numbers for collections of information in Addendum VII may be addressed to Melissa Musotto, Office of Strategic Operations and Regulatory Affairs, Regulations Development and Issuances Group, Centers for Medicare & Medicaid Services, C5–14–03, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–6962.

Questions concerning Medicare-approved carotid stent facilities may be addressed to Sarah J. McClain, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–2994.

Questions concerning all other information may be addressed to Gwendolyn Johnson, Office of Strategic Operations and Regulatory Affairs, Regulations Development Group, Centers for Medicare & Medicaid Services, C5–14–03, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–6954.

SUPPLEMENTARY INFORMATION:

I. Program Issuances

The Centers for Medicare & Medicaid Services (CMS) is responsible for administering the Medicare and Medicaid programs. These programs pay for health care and related services for 39 million Medicare beneficiaries and 35 million Medicaid recipients. Administration of the two programs involves (1) furnishing information to Medicare beneficiaries and Medicaid recipients, health care providers, and the public and (2) maintaining effective communications with regional offices, State governments, State Medicaid agencies, State survey agencies, various providers of health care, all Medicare contractors that process claims and pay bills, and others. To implement the various statutes on which the programs are based, we issue regulations under the authority granted to the Secretary of the Department of Health and Human Services under sections 1102, 1871, 1902, and related provisions of the Social Security Act (the Act). We also issue various manuals, memoranda, and statements necessary to administer the programs efficiently.

Section 1871(c)(1) of the Act requires that we publish a list of all Medicare manual instructions, interpretive rules, statements of policy, and guidelines of general applicability not issued as regulations at least every 3 months in the **Federal Register**. We published our first notice June 9, 1988 (53 FR 21730). Although we are not mandated to do so by statute, for the sake of completeness of the listing of operational and policy statements, and to foster more open and transparent collaboration, we are continuing our practice of including Medicare substantive and interpretive regulations (proposed and final) published during the respective 3-month time frame.

II. How To Use the Addenda

This notice is organized so that a reader may review the subjects of manual issuances, memoranda, substantive and interpretive regulations, NCDs, and FDA-approved IDEs published during the subject quarter to determine whether any are of particular interest. We expect this notice to be used in concert with previously published notices. Those unfamiliar with a description of our Medicare manuals may wish to review Table I of our first three notices (53 FR 21730, 53 FR 36891, and 53 FR 50577) published in 1988, and the notice published March 31, 1993 (58 FR 16837). Those desiring information on the Medicare NCD Manual (NCDM, formerly the Medicare Coverage Issues Manual (CIM)) may wish to review the August 21, 1989, publication(54 FR 34555). Those interested in the revised process used in making NCDs under the Medicare program may review the September 26, 2003, publication (68 FR 55634).

To aid the reader, we have organized and divided this current listing into eight addenda:

- Addendum I lists the publication dates of the most recent quarterly listings of program issuances.
- Addendum II identifies previous **Federal Register** documents that contain a description of all previously published CMS Medicare and Medicaid manuals and memoranda.
- Addendum III lists a unique CMS transmittal number for each instruction in our manuals or Program Memoranda and its subject matter. A transmittal may consist of a single or multiple instruction(s). Often, it is necessary to use information in a transmittal in conjunction with information currently in the manuals.
- Addendum IV lists all substantive and interpretive Medicare and Medicaid regulations and general notices published in the **Federal Register** during the quarter covered by this notice. For each item, we list the—
  - Date published;
  - **Federal Register** citation;
  - Parts of the Code of Federal Regulations (CFR) that have changed (if applicable);
  - Agency file code number; and
  - Title of the regulation.
- Addendum V includes completed NCDs, or reconsiderations of completed NCDs, from the quarter covered by this notice. Completed decisions are identified by the section of the NCDM in which the decision appears, the title, the date the publication was issued, and the effective date of the decision.
- Addendum VI includes listings of the FDA-approved IDE categorizations, using the IDE numbers the FDA assigns. The listings are organized according to the categories to which the device numbers are assigned (that is, Category A or Category B), and identified by the IDE number.
- Addendum VII includes listings of all approval numbers from the Office of Management and Budget (OMB) for collections of information in CMS regulations in title 42; title 45, subchapter C; and title 20 of the CFR.
- Addendum VIII includes listings of Medicare-approved carotid stent facilities. All facilities listed meet CMS standards for performing carotid artery stenting for high risk patients.

III. How To Obtain Listed Material

A. Manuals

Those wishing to subscribe to program manuals should contact either the Government Printing Office (GPO) or the National Technical Information Service (NTIS) at the following addresses:

Superintendent of Documents, Government Printing Office, ATTN: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954, Telephone (202) 512–1800, Fax number (202) 512–2250 (for credit card orders); or

National Technical Information Service, Department of Commerce, 5825 Port Royal Road, Springfield, VA 22161, Telephone (703) 487–4630.

In addition, individual manual transmittals and Program Memoranda

listed in this notice can be purchased from NTIS. Interested parties should identify the transmittal(s) they want. GPO or NTIS can give complete details on how to obtain the publications they sell. Additionally, most manuals are available at the following Internet address: *http://cms.hhs.gov/manuals/default.asp.*

B. Regulations and Notices

Regulations and notices are published in the daily **Federal Register**. Interested individuals may purchase individual copies or subscribe to the **Federal Register** by contacting the GPO at the address given above. When ordering individual copies, it is necessary to cite either the date of publication or the volume number and page number.

The **Federal Register** is also available on 24x microfiche and as an online database through *GPO Access*. The online database is updated by 6 a.m. each day the **Federal Register** is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is *http://www.gpoaccess.gov/fr/index.html,* by using local WAIS client software, or by telnet to swais.gpoaccess.gov, then log in as guest (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then log in as guest (no password required).

C. Rulings

We publish rulings on an infrequent basis. Interested individuals can obtain copies from the nearest CMS Regional Office or review them at the nearest regional depository library. We have, on occasion, published rulings in the **Federal Register**. Rulings, beginning with those released in 1995, are available online, through the CMS Home Page. The Internet address is *http://cms.hhs.gov/rulings.*

D. CMS' Compact Disk-Read Only Memory (CD–ROM)

Our laws, regulations, and manuals are also available on CD–ROM and may be purchased from GPO or NTIS on a subscription or single copy basis. The Superintendent of Documents list ID is HCLRM, and the stock number is 717–139–00000–3. The following material is on the CD–ROM disk:

- Titles XI, XVIII, and XIX of the Act.
- CMS-related regulations.
- CMS manuals and monthly revisions.
- CMS program memoranda.

The titles of the Compilation of the Social Security Laws are current as of January 1, 2005. (Updated titles of the Social Security Laws are available on the Internet at *http://www.ssa.gov/OP_Home/ssact/comp-toc.htm.*) The remaining portions of CD–ROM are updated on a monthly basis.

Because of complaints about the unreadability of the Appendices (Interpretive Guidelines) in the State Operations Manual (SOM), as of March 1995, we deleted these appendices from CD–ROM. We intend to re-visit this issue in the near future and, with the aid of newer technology, we may again be able to include the appendices on CD–ROM.

Any cost report forms incorporated in the manuals are included on the CD–ROM disk as LOTUS files. LOTUS software is needed to view the reports once the files have been copied to a personal computer disk.

IV. How To Review Listed Material

Transmittals or Program Memoranda can be reviewed at a local Federal Depository Library (FDL). Under the FDL program, government publications are sent to approximately 1,400 designated libraries throughout the United States. Some FDLs may have arrangements to transfer material to a local library not designated as an FDL. Contact any library to locate the nearest FDL.

In addition, individuals may contact regional depository libraries that receive and retain at least one copy of most Federal Government publications, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the nearest regional depository library from any library. For each CMS publication listed in Addendum III, CMS publication and transmittal numbers are shown. To help FDLs locate the materials, use the CMS publication and transmittal numbers. For example, to find the Medicare NCD publication titled "Cardiac Catheterization Performed in Other Than a Hospital Setting," use CMS–Pub. 100–03, Transmittal No. 46.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance, Program No. 93.774, Medicare—Supplementary Medical Insurance Program, and Program No. 93.714, Medical Assistance Program.)

Dated: June 6, 2006.

Jacquelyn Y. White,

Director, Office of Strategic Operations and Regulatory Affairs.

Addendum I

This addendum lists the publication dates of the most recent quarterly listings of program issuances.

December 24, 2003 (68 FR 74590)
March 26, 2004 (69 FR 15837)
June 25, 2004 (69 FR 35634)
September 24, 2004 (69 FR 57312)
December 30, 2004 (69 FR 78428)
February 25, 2005 (70 FR 9338)
June 24, 2005 (70 FR 36620)
September 23, 2005 (70 FR 55863)
December 23, 2005 (70 FR 76290)
March 24, 2006 (71 FR 14903)

Addendum II—Description of Manuals, Memoranda, and CMS Rulings

An extensive descriptive listing of Medicare manuals and memoranda was published on June 9, 1988, at 53 FR 21730 and supplemented on September 22, 1988, at 53 FR 36891 and December 16, 1988, at 53 FR 50577. Also, a complete description of the former CIM (now the NCDM) was published on August 21, 1989, at 54 FR 34555. A brief description of the various Medicaid manuals and memoranda that we maintain was published on October 16, 1992, at 57 FR 47468.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS

[January through March 2006]

Transmittal No.	Manual/subject/publication No.
	Medicare General Information (CMS Pub. 100–01)
34	Change Management Process—Electronic Change Information Management Portal (eChimp).

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[January through March 2006]

Transmittal No.	Manual/subject/publication No.
35	Revisions to Instructions for Contractors Other Than the Religious Nonmedical Health Care Institution Specialty Contractor Regarding Claims for Beneficiaries With Religious Nonmedical Health Care Institution Elections.
	Religious Nonmedical Health Care Institution Defined.
36	Scheduled Release for April 2006 Software Programs and Pricing/Coding Files.
	Medicare Benefit Policy (CMS Pub. 100–02)
44	Update to the End-Stage Renal Disease Composite Payment Rates.
	New End-Stage Renal Disease Composite Payment Rates Effective January 1, 2006.
45	Revisions to Instructions for Contractors Other Than the Religious Nonmedical Health Care Institution Specialty Contractor Regarding Claims for Beneficiaries With Religious Nonmedical Health Care Institution Elections.
	Religious Nonmedical Health Care Institution Services.
	Beneficiary Eligibility for Religious Nonmedical Health Care Institution Services.
	Election of Religious Nonmedical Health Care Institution Benefits.
	Revocation of Religious Nonmedical Health Care Institution Election.
	Religious Nonmedical Health Care Institution Election After Prior Revocation.
	Medicare Payment for Religious Nonmedical Health Care Institution Services and Beneficiary Liability.
	Coverage of Religious Nonmedical Health Care Institution Items Furnished in the Home.
	Coverage and Payment of Durable Medical Equipment Under the Religious Nonmedical Health Care Institution Home Benefit.
	Coverage and Payment of Home Visits Under the Religious Nonmedical Health Care Institution Home Benefit.
46	This Transmittal is rescinded and replaced by Transmittal 47.
47	Therapy Caps Exception Process.
	Coverage of Outpatient Rehabilitation Therapy Services (Physical Therapy, Occupational Therapy, and Speech-Language Pathology Services) Under Medical Insurance.
	Documentation Requirements for Therapy Services.
48	Glaucoma Screening Services.
	Preventive and Screening Services.
	Glaucoma Screening.
49	Payment of Federally Qualified Health Centers for Diabetes Self Management Training Services and Medical Nutrition Therapy Services.
	Rural Health Clinic and Federally Qualified Health Center Service Defined.
	Rural Health Clinic Services.
	Federally Qualified Health Center Services.
	Medicare National Coverage Determinations (CMS Pub. 100–03)
46	Cardiac Catheterization Performed in Other Than a Hospital Setting.
47	Changes to the Covered Indications for Tumor Antigen by Immunoassay CA 125 to Add Primary Peritoneal Carcinoma.
	Tumor Antigen by Immunoassay CA 125.
48	Technical Corrections to the NCD Manual.
	Hyperbaric Oxygen Therapy.
	Home Glucose Monitors.
	Vitrectomy.
	Abortion.
	Diathermy Treatment.
	Assessing Patients Suitability for Electrical Nerve Stimulation Therapy.
	Electroencephalographic Monitoring During Surgical Procedures Involving the Cerebral Vasculature.
	Diagnostic Pap Smears.
	Human Immunodeficiency Virus Testing (Diagnosis).
	Prostate Cancer Screening Tests.
	Screening Pap Smears and Pelvic Examinations for Early Detection of Cervical Or Vaginal Cancer.
	Non-Implantable Pelvic Floor Electrical Stimulator.
	Levocarnitine for Use in the Treatment of Carnitine Deficiency in End-Stage Renal Disease Patients.
	Adult Liver Transplantation.
	Obsolete or Unreliable Diagnostic Tests.
49	Microvolt T-Wave Alternans Diagnostic Testing.
50	External Counterpulsation Therapy.
	Medicare Claims Processing (CMS Pub. 100–04)
803	Administration of Drugs and Biologicals in a Method II Critical Access Hospital—Rescinds and replaces Change Request 3911.
	Costs of Emergency Room On-Call Providers.
	Coding for Administering Drugs in a Method II Critical Access Hospital.
	Coding for Low Osmolar Contrast Material.
	Coding for Administration of Other Drugs and Biologicals.
804	January 2006 Update of the Hospital Outpatient Prospective Payment System:
	Summary of Payment Policy Changes, Outpatient Prospective Payment System Pricer Logic Changes, and Instructions for Updating the Outpatient Provider Specific File.
805	Annual Update to the Therapy Code List.
	Healthcare Common Procedure Coding System Coding Requirement.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[January through March 2006]

Transmittal No.	Manual/subject/publication No.
806	Termination of Healthcare Common Procedure Coding System Codes Payable During the Transition to the Ambulance Fee Schedule.
807	Revision to IOM 100–4, Chapter 12, Sections 90.4.1.1 and 90.4.2. Carrier Web Pages. Health Professional Shortage Area Designations.
808	Nursing Facility Services (Codes 99304—99318).
809	Update to Payment Rates for Religious Nonmedical Health Care Institution Services Furnished in the Home, Calendar Year 2006.
810	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
811	Teaching Physician Services. Payment for Physician Services in Teaching Settings Under the Medicare Physician Fee Schedule. Evaluation and Management Services. Surgical Procedures. Psychiatry. Time-Based Codes. Miscellaneous. Assistants at Surgery in Teaching Hospitals.
812	Medicare Payment for Pre-Administration-Related Services Associated With Intravenous Immune Globulin Administration.
813	Instructions for the Payment of Health Professional Shortage Area and Physician Scarcity Area Bonuses When the Place of Service is "Home."
814	Claim Status Category Code and Claim Status Code Update.
815	Healthcare Provider Taxonomy Codes Update.
816	Coverage and Billing for Ultrasound Stimulation for Nonunion Fracture Healing. Durable Medical Equipment Regional Carrier Billing Instructions.
817	Update to the Inpatient Provider Specific File and the Outpatient Provider Specific File to Retain Provider Information. Outpatient Provider Specific File.
818	Smoking and Tobacco-Use Cessation Counseling Services: Common Working File Inquiry for Providers. Common Working File Inquiry.
819	Modification to Quarterly Refund Modifier Edit for Automatic Implantable Cardiac Defibrillator Services.
820	Sites of Service Revenue Codes for Rural Health Clinics and Federally Qualified Health Centers. General Billing Requirements.
821	Billing and Payment of Certain Colorectal Cancer Screenings for Non-Patients. Type of Bill 14X. Payment. Billing Requirements for Claims Submitted to Fiscal Intermediaries.
822	Update of Radiopharmaceutical Imaging Agents Healthcare Common Procedure. Coding System Codes Applicable to Positron Emission Tomography. Tracer Codes Required for Positron Emission Tomography Scans.
823	New Temporary Code for Battery for Power Mobility Devices. Description of Healthcare Common Procedure Coding System.
824	Quarterly Update to Correct Coding Initiative Edits, V12.1, Effective April 1, 2006.
825	System Edits for Respiratory Assist Devices with Bi-Level Capability and a Back-Up Rate.
826	April Quarterly Update to the 2006 Annual Update of Healthcare Common Procedure Coding System Codes Used for Skilled Nursing Facility Consolidated Billing Enforcement.
827	Use of 12X Type of Bill for Billing Screening Mammography, Screening Pelvic Examinations, and Screening Pap Smears. Billing Requirements—Fiscal Intermediary Claims. Rural Health Center/Federally Qualified Health Center Claims With Dates of Service on or After January 1, 2002. Type of Bill and Revenue Codes for Form CMS–1450. Revenue Code and Healthcare Common Procedure Coding System Codes for Billing.
828	Mammography Facility Certification File—Updated Procedures and Content Mammography Quality Standards Act. Mammography Quality Standards Act File.
829	Modification of Roster Billing for Mass Immunizers Billing for Inpatient Part B Services (Type of Bills 12X and 22X). Claims Submitted to Intermediaries for Mass Immunizations of Influenza and Pneumococcal Pneumonia Vaccine.
830	Denial of Claims Not Timely Filed. Time Limitations for Filing Provider Claims to Fiscal Intermediaries and Carriers. Determination of Untimely Filing and Resulting Actions. Time Limitations for Filing Part B Reasonable Charge and Fee Schedule Claims. Time Limit for Filing.
831	Shared Systems Medicare Secondary Payer Balancing Edit and Administrative Simplification Compliance Act Enforcement Update. Crossover Claim Requirements. Enforcement.
832	This Transmittal is rescinded and replaced by Transmittal 868.
833	Medicare Remit Easy Print Enhancements, and Clarification of Check Issue/Electronic Funds Transfer Effective Date.
834	Revision to Health Professional Shortage Area and Physician Scarcity Area Bonus Billing for Some Globally Billed Services. Services Eligible for Health Professional Shortage Act and Physician Scarcity Bonus Payment.
835	New Temporary Codes for Adjustable Wheelchair Cushions.
836	This Transmittal is rescinded and replaced by Transmittal 843.
837	Coordination of Benefits Agreement Full Claim File Repair Process. Coordination of Benefits Agreement Detailed Error Report Notification Process.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[January through March 2006]

Transmittal No.	Manual/subject/publication No.
	Coordination of Benefits Agreement Full Claim File Repair Process.
838	Corrections to Common Working File Editing of Home Health Prospective Payment System Claims Regarding Non-Covered Episodes and Prior Inpatient Stays and Fiscal Intermediary Shared System Implementation of 2006 Therapy Code Update.
839	This Transmittal is rescinded and replaced by Transmittal 866.
840	This Transmittal is rescinded and replaced by Transmittal 882.
841	MCS Screen Expansion for the Prescription Order Number for the Competitive Acquisition Program for Part B Drugs to be Developed Over the July 2006 and October 2006 Release With Final Implementation on October 2, 2006.
842	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
843	Inpatient Admission Followed by Discharge or Death Prior to Room Assignment.
	Charges to Beneficiaries for Part A Services.
844	This Transmittal is rescinded and replaced by Transmittal 890.
845	National Council for Prescription Drug Program Coordination of Benefits Workaround Instructions.
846	New Skilled Nursing Facility Consolidated Billing Web Site Address.
	Services Beyond the Scope of the Part A Skilled Nursing Facility Benefit.
	Skilled Nursing Facility Consolidated Billing Annual Update Process for Fiscal Intermediaries.
	Edit for Therapy Services Separately Payable When Furnished by a Physician.
	Annual Update Process.
	Billing for Medical and Other Health Services.
	Carrier Claims Processing for Consolidated Billing for Physician and Non-Physician Practitioner Services Rendered to Beneficiaries in a Non-Covered Skilled Nursing Facility Stay.
847	Hold on Medicare Payments.
848	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
849	Update to the End-stage Renal Disease Composite Payment Rates.
	Drug Payment Amounts for Facilities.
850	Change Payment Floor Date for Paper Claims.
	Payment Floor Standards.
851	Revisions to Instructions for Contractors Other Than the Religious Nonmedical Health Care Institutions Specialty Contractor Regarding Claims for Beneficiaries With Religious Nonmedical Health Care Institutions Election.
	Religious Nonmedical Health Care Institution Admission.
	Designated Fiscal Intermediaries and Carriers.
	Billing and Processing Instructions for Religious Nonmedical Health Care Institutions Claims.
	Religious Nonmedical Health Care Institutions Election Process.
	Requirement for Religious Nonmedical Health Care Institutions Election.
	Revocation of Religious Nonmedical Health Care Institutions Election.
	Completion of the Uniform (Institutional Provider) Bill (Form CMS 1450) Notice of Election for Religious Nonmedical Health Care Institutions.
	Common Working File Processing of Elections, Revocations and Cancelled Elections.
	Billing Process for Religious Nonmedical Health Care Institutions Services.
	When to Bill for Religious Nonmedical Health Care Institutions Services.
	Required Data Elements on Claims for Religious Nonmedical Health Care Institution Services.
	Religious Nonmedical Health Care Institutions Claims Processing by Religious Nonmedical Health Care Institutions Specialty Contractor.
	Informing Beneficiaries of the Results of Religious Nonmedical Health Care Institutions Claims Processing.
	Billing and Payment of Religious Nonmedical Health Care Institutions Items and Services Furnished in the Home.
	Processing Claims For Beneficiaries With Religious Nonmedical Health Care Institutions Elections by Contractors Other Than the Religious Nonmedical Health Care Institutions Specialty Intermediary.
	Recording Determinations of Excepted/Nonexcepted Care on Claim Records Informing Beneficiaries of the Results of Excepted/Nonexcepted Care Determinations by the Non-specialty Contractor.
852	Ambulance Fee Schedule—CY 2006 Update: Correction to CR 4061 Ambulance Inflation Factor.
853	This Transmittal is rescinded and replaced by Transmittal 855.
854	Medicare Summary Notice Format Changes for Durable Medical Equipment.
	Medicare Administrative Contracts Transition.
	Title Section of the Medicare Summary Notice.
	Appeals Section.
855	Therapy Caps Exception Process.
	The Financial Limitation.
856	January 2006 Quarterly Average Sales Price Medicare Part B Drug Pricing File, Effective January 1, 2006, and Revisions to April 2005, July 2005, and October 2005 Quarterly Average Sales Price Medicare Part B Drug Pricing Files.
857	Medicare Part B Drug Pricing Update—Payment Limit for J7620.
858	This Transmittal is rescinded and replaced by Transmittal 873.
859	Remittance Advice Remark Code and Claim Adjustment Reason Code Update.
860	Remittance Advice Remark Code and Claim Adjustment Reason Code Update.
861	Sunset of the Policies for Provider Nominations for an Intermediary and the Provider Requests for a Change of Intermediary—Revisions to Publication 100–04, Chapter 1, Section 20.
	Provider Assignment to a Fiscal Intermediary.
	Provider Change of Ownership.
	Multi-State Provider Chains Billing Fiscal Intermediaries.
	CMS No Longer Accepts Provider Requests to Change Their Fiscal Intermediary.
	Solicitation of a Provider to Secure a Change of Fiscal Intermediary.
	Communications.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[January through March 2006]

Transmittal No.	Manual/subject/publication No.
862	Appeals of Claims Decisions: Administrative Law Judge; Departmental Appeals Board; U.S. District Court Review.
	Administrative Law Judge—The Third Level of Appeal.
	Right to an Administrative Law Judge Hearing.
	Requests for an Administrative Law Judge Hearing.
	Forwarding Request to Department of Health & Human Services/Office of Medicare Hearings and Appeals.
	Review and Effectuation of Administrative Law Judge Decisions.
	Effectuation Time Limits & Responsibilities.
	Duplicate Administrative Law Judge Decisions.
	Payment of Interest on Administrative Law Judge Decisions.
	Departmental Appeals Board—The Fourth Level of Appeal.
	Recommending Agency Referral of Administrative Law Judge Decisions or Dismissals.
	Effectuation of Departmental Appeal Board Orders and Decisions.
	Requests for Case Files.
	Payment of Interest on Departmental Appeals Board Decisions.
	U.S. District Court Review—The Fifth Level of Appeal.
	Requests for U.S District Court Review by a Party.
	Effectuation of U.S District Court Decisions.
	Payment of Interest of U.S. District Court Decisions.
863	Update to Chapter 20, "Billing for Oxygen and Oxygen Equipment," Section 130.6.
	Billing for Oxygen and Oxygen Equipment.
864	Changes to the Laboratory National Coverage Determination Edit Software for April 2006.
865	Health Common Procedure Coding System Codes Subject to and Exclude from Clinical Laboratory Improvement Amendments Edits.
	Verifying Clinical Laboratory Improvement Act Certification.
	Certificate for Physician-Performed Microscopy Procedures.
	Clinical Laboratory Improvement Act License or Licensure Exemption.
866	Additional Requirements for the Competitive Acquisition Program for Part B Drugs.
	Duplicates.
	General Information Section.
	Duplicados.
	Seccion De Informacion General.
	The Competitive Acquisition Program of Outpatient Drugs and Biologicals Under Part B.
	Physician Election and Information Transfer Between Carriers and the Designated Carrier for Competitive Acquisition Program Claims.
	Physician Information for the Designated Carrier.
	Quarterly Updates.
	Format for Data.
	Physician Information for the Vendors.
	Claims Processing Instructions for Competitive Acquisition Program Claims for The Local Carrier.
	Competitive Acquisition Program Required Modifiers.
	Submitting the Administration/Evaluation and Management Services and the No Pay Service Lines.
	Submitting the Prescription Order Numbers and No Pay Modifiers.
	Competitive Acquisition Program Claims Submitted With Only the No Pay Line.
	Only Competitive Acquisition Program Related Services on a Claim.
	Use of the Restocking Modifier.
	Use of the Fumish as Written Modifier.
	Monitoring of Claims Submitted With the J2 and/or J3 Modifiers.
	Claims Submitted for Only Drugs Listed on the Approved CAP Vendors Drug List.
	Application of Local Medical Review Policies.
	Claims Processing Instructions for the Designated Carrier.
	Creation of Internal Vendor Provider Files.
	Submission of Paper Claims by Vendors.
	Submission of Claims from Vendors With the J1 No Pay Modifier.
	Submission of Claims from Vendors Without a Provider Primary Identifier for The Ordering Physician.
	New Medicare Summary Notice Message To Be Included on All Vendor Claims Additional Medical Information.
	Competitive Acquisition Program Fee Schedule.
	Matching the Physician Claim to the Vendor Claim.
	Denials Due to Medical Necessity.
	Denials For Reasons Other Than Medical Necessity.
	Changes to Pay/Process Indicators.
	Post-Payment Overpayment Recovery Actions.
	Pending and Recycling the Claim When All Lines Do Not Have a Match.
	Creation of a Weekly Report for Claims That Have Pended More Than 90 Days and Subsequent Action.
	Coordination of Benefits.
	National Claims History.
	Adding New Drugs to Competitive Acquisition Program.
	Updating Fee Schedule for New Drugs in Competitive Acquisition Program.
	Non-Participating Physicians Who Elect the Competitive Acquisition Program.
	Discarded Drugs and Biologicals.
	Carrier Specific Requirements for Certain Specialties/Services.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[January through March 2006]

Transmittal No.	Manual/subject/publication No.
867	Elimination of the Durable Medical Equipment Regional Carrier Information Form.
	Billing Drugs Electronically—National Council of Prescription Drug Programs.
	Certificate of Medical Necessity.
868	Payment of Same Day Transfer Claims Under the Inpatient Psychiatric Facility Prospective Payment System.
869	Installation of Pricing Software Containing the Customer Information Control System Formatting Update.
870	Type of Service Corrections.
871	2005 Revised American National Standards Institute X12N 837 Professional Health Care Claim Companion Document.
872	New Waived Tests.
873	Increase Remittance File Retention.
874	Instructions for Downloading the Medicare Zip Code File.
875	Maintenance and Update of the Temporary Hook Created to Hold Out Patient Prospective Payment System Claims That Include Certain Drug Healthcare Common Procedure Coding System Codes.
876	April 2006 Quarterly Average Sales Price Medicare Part B Drug Pricing File and Revisions to January 2005, April 2005, July 2005, October 2005, and January 2006 Quarterly Average Sales Price Medicare Part B Drug Pricing Files.
877	Changes in Transitional Outpatient Payments for Rural Sole Community Hospitals and Small Rural Hospitals for 2006.
878	Healthcare Integrated General Ledger Accounting System and 835 Implementation Guide Provider Adjustment Code Mapping and Standard Paper Remittance Advice Changes.
879	Announcement of Federally Qualified Health Centers Designation As Urban and Rural—Skilled Nursing Facility Consolidated Billing As It Applies to FQHC Services Furnished to Swing-Bed Patients.
880	April Quarterly Update for 2006 Durable Medical Equipment, Prosthetics, Orthotics, and Supplies Fee Schedule.
881	Outpatient Prospective Payment System Hospital Emergency Room Services Exceeding 24 Hours.
	Accurate Reporting of Surgical and Medical Procedures and Services.
882	Hospital Billing for Take-Home Drugs.
	Claims Processing Jurisdiction for Oral Anti-Emetic Drugs.
	Billing and Payment Instructions for Fiscal Intermediaries.
883	Claims Processing Requirements for Medicare Beneficiaries in State or Local Custody Under a Penal Authority—Manualization.
884	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
885	Suppression of Standard Paper Remittance Advice to Providers and Suppliers Also Receiving Electronic Remittance Advice for 45 Days or More.
	Medicare Remit Easy Print Software for Carrier and Durable Medical Equipment Regional Carrier Provider/Supplier Use.
886	April 2006 Update to the Medicare Outpatient Code Editor Version 21.2 for Bills From Hospitals That Are Not Paid Under The Outpatient Prospective Payment System.
887	Correction to Change Request 4282—Application of Temporary 5 Percent Payment Increase for Home Health Services Furnished in a Rural Area for One Year Under the Home Health Prospective Payment System.
888	April 2006 Outpatient Prospective Payment System Code Editor Specifications Version 7.1.
889	This Transmittal is rescinded and replaced by Transmittal 897.
890	Guidelines for Payment of Vaccine (Pneumococcal Pneumonia Virus, Influenza Virus, and Hepatitis B Virus) Administration.
	Healthcare Common Procedure Coding System and Diagnosis Codes.
	Fiscal Intermediary Payment for Pneumococcal Pneumonia Virus, Influenza Virus, and Hepatitis B Virus Vaccines and Their Administration.
891	Redesignate HCPCS Codes J8597 and E1239 to Their Proper Common Working File Category.
892	Eligibility Transaction URL update.
	Eligiblity Extranet Workflow.
893	2006 Juridiction List.
894	Microvolt T-Wave Altemans Diagnostic Testing.
895	Expansion of Glaucoma Screening Services.
	Remittance Advice Notices.
	Medicare Summary Notice Messages.
896	April 2006 Update of the Hospital Outpatient Prospective Payment System: Summary of Payment Policy Changes.
897	April Update to the 2006 Medicare Physician Fee Schedule Database.
898	External Counterpulsation Therapy.
	Billing and Payment Requirements.
	Special Intermediary Billing and Payment Requirements.
899	Revised Health Insurance Claim Form CMS–1500.
	Items 14–33—Provider of Service or Supplier Information.
	Patient's Request for Medicare Payment Form CMS–1490S.
	Printing Standards and Print File Specifications Form CMS–1500.
	Medicare Secondary Payer (CMS Pub. 100–05)
47	Medicare Secondary Payer Debt Collection and Referral Updates.
	Debt and Debtor Definitions.
	Debt Selection and Verification.
	Debt Selection Criteria.
	Debts Excluded From Referral.
	Monitoring Debts Excluded From the Debt Collection Improvement Act Referral Process.
	Validation of Possible Eligible Debts for Referral.
	Issuance of the "Intent to Refer" Letter and Inquiries/Replies Related to Debt Collection Improvement Act Activities.
	Issuance of the "Intent to Refer" to Treasury Letter.
	Responding to Correspondence as a Result of the Issuance of the Intent to Refer Letter.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[January through March 2006]

Transmittal No.	Manual/subject/publication No.
	Debt Collection System and Debt Collection System Entry.
	Debt Collection System.
	Debt Collection System Entry of Delinquent Debt.
	Contractor Actions Subsequent to Debt Collection System Entry.
	Steps Contractors Shall Take Upon Knowledge or Receipt of Certain Information.
	Debt Collection Improvement Act Treasury Collection (Placeholder) Financial Reporting.
48	Request for Claims Detail in Support of Medicare's Debt.
	Medicare Financial Management (CMS Pub. 100–06)
88	Clarification to IOM 100–06, Sections 290.7 and 290.8.
	Completing Physician Scarcity Area Quarterly Report, Form CMS–1565F, CROWD Report 6.
	Checking Reports.
89	Mandated Use of Autoload Program in System Tracking for Audit and Reimbursement.
90	Recurring Update Notification for the Notice of New Interest Rate for Medicare Overpayments and Underpayments.
91	Clarification of Instructions in Pub. 100–6, Chapter 5 Financial Reporting, Section 310.4—Line 4(a) through (e), Reclassified CNC Debt (Principal and Interest).
92	Clarification of the Form CMS–1522 Monthly Contractor Financial Report Procedures for the Reconciliation of Total Funds Expended for Fiscal Intermediary Shared System Medicare Contractors Used in the Preparation of Form CMS–1522 Monthly Contractor Financial Report.
	Identification and Summarization of Detailed Claims Data Records For Use in the Financial Reconciliation of Total Funds Expended to Fiscal Intermediary Shared System Reports.
	Using the Electronic Spreadsheet to Complete the Reconciliation of the Detailed Claims Data File to Fiscal Intermediary Shared System Reports.
	Electronic Spreadsheet Input Schedule.
	Total Funds Expended (Net Disbursements and Adjustments to Net Disbursements).
	Reconciliation of Detailed Claims Data File to Fiscal Intermediary Shared Systems System Reports.
	Reconciliation of Non-Physician Incentive Plan Payments on Fiscal Intermediary Shared Systems System Reports.
	Reconciliation of Interest Received and Paid on Fiscal Intermediary Shared Systems System Reports.
	Categorization of Total Funds Expended by Category.
	Medicare State Operations Manual (CMS Pub. 100–07)
16	Revisions to Chapter 2, "The Certification Process," Appendix E—"Providers of Outpatient Physical Therapy or Outpatient Speech Language Pathology Services," and Appendix K—"Comprehensive Outpatient Rehabilitation Facilities".
17	Revisions to Chapter 2, The Certification Process.
18	Complete Revision to Chapter 5, "Complaint Procedures."
	Medicare Program Integrity (CMS Pub. 100–08)
135	Changes to the GTL Titles.
	Prepayment Edits.
	Location of Postpayment Reviews.
	Notification of Provider(s) or Supplier(s) and Beneficiaries of the Postpayment Review Results.
	Evaluation of the Effectiveness of Postpayment Review and Next Steps.
	Postpayment Files.
	Overpayment Procedures.
	Fraud or Willful Misrepresentation Exists—Fraud Suspensions.
	Overpayment Exists But the Amount Is Not Determined—General Suspensions.
	Payments to be Made May Not be Correct—General Suspensions.
	Provider Fails to Furnish Records and Other Requested Information—General Suspensions.
	CMS Approval.
	Prior Notice Versus Concurrent Notice.
	Content of Notice.
	Shortening the Notice Period for Cause.
	Mailing the Notice to the Provider.
	Opportunity for Rebuttal.
	Claims Review.
	Duration of Suspension of Payment.
	Removing the Suspension.
	Durable Medical Equipment Regional Carriers and Durable Medical Equipment Regional Carrier Program Safeguard Contractors.
	Other Multi-Regional Contractors.
	Informational Copies to Primary Government Task Leaders, Associate Govemment.
	Task Leaders, Subject Matter Experts, or CMS Regional Office.
	Notification of Provider or Supplier of the Review and Selection of the Review Site.
	Sampling Methodology Overturned.
136	Policy Changes to Program Integrity Manual.
	Contractor Medical Director.
137	Provider Enrollment Workload and Timeliness Reports.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[January through March 2006]

Transmittal No.	Manual/subject/publication No.
	Tracking Requirements.
138	This Transmittal is rescinded and replaced by Transmittal 142.
139	This Transmittal is rescinded and replaced by Transmittal 140.
140	Therapy Caps Exception Process.
	Exception from the Uniform Dollar Limitation.
	Prepay Complex Review Workload and Cost.
141	Modification to the Unique Physician Identification Number Process.
	National Registry of Physicians/Health Care Practitioners/Group Practices.
	Ongoing Data Collection on Physicians/Health Care Practitioners/Group Practices Applications.
	Physicians/Health Care Practitioners/Group Practices Record—Required Information and Format.
	Maintaining Physician/Health Care Practitioner/Group Practices Memberships.
	Validation of Physician/Health Care Practitioner/Group Practice Credentials, Certification, Sanction, and License Information for Prior Practices.
	Unique Physician Identification Number Cross-Referral Requirement.
	Maintenance of the Registry.
	General.
	Add Records.
	Adding Physician/Health Care Practitioner/Group Practice Setting.
	Update Records.
	Rejections.
	Exceptions.
	Batching Procedures.
	Privacy Act Requirements.
	Release of Unique Physician Identification Numbers.
	Release of Unique Physician Identification Numbers to Physicians, Nurse Practitioners, Clinical Nurse Specialists, and Physician Assistants.
	Automatic Notifications.
	Unique Physician Identification Number Directory.
	Unique Physician Identification Numbers for Ordering/Referring Physicians.
	Common Working File Edits and Claims Processing Requirements.
	Surrogate Unique Physician Identification Numbers.
	Carrier Registry Telecommunications Interface.
	AT&T Global Network Service/Compact Disc.
	File Transfer.
	Registry Customer Information Control System.
	T-Mail.
142	New Durable Medical Equipment Prosthetic, Orthotics & Supplies Certificates of Medical Necessity and Durable Medical Equipment Medicare Administrative Contractors Information Forms for Claims Processing.
	Documentation Specifications for Areas Selected for Prepayment or Postpayment Medical Review.
	Home Use of Durable Medical Equipment.
	Rules Concerning Prescriptions (Orders).
	Physician Orders.
	Verbal Orders.
	Written Orders.
	Written Orders Prior to Delivery.
	Requirement of New Orders.
	Certificates of Medical Necessity and Durable Medical Equipment Medicare Administrative Contractor Information Forms.
	Completing a Certificate of Medical Necessity or Durable Medical Equipment Medicare Administrative Contractors Information Form.
	Cover Letters for Certificates of Medical Necessity.
	Acceptability of Faxed Orders and Facsimile or Electronic Certificates of Medical Necessity and Durable Medical Equipment Administrative Contractors Information Forms.
	Durable Medical Equipment Medicare Administrative Contractors and Durable Medical Equipment Program Safeguard Contractor's Authority to Initiate an Overpayment or Civil Monetary Penalty When Invalid Certificates of Medical Necessity are Identified.
	Nurse Practitioner or Clinical Nurse Specialist Rules Concerning Orders and Certificates of Medical Necessity.
	Physician Assistant Rules Concerning Orders and Certificates of Medical Necessity.
	Documentation in the Patient's Medical Record.
	Supplier Documentation.
	Evidence of Medical Necessity.
	Evidence of Medical Necessity for the Oxygen Certificates of Medical Necessity.
	Evidence of Medical Necessity: Wheelchair and Power-Operated Vehicle Claims.
	Period of Medical Necessity—Home Dialysis Equipment.
	Safeguards in Making Monthly Payments.
	Guidance on Safeguards in Making Monthly Payments.
	Pick-up slips.
	Incurred Expenses for Durable Medical Equipment and Orthotic and Prosthetic Devices.
	Patient Equipment Payments Exceed Deductible and Coinsurance on Assigned Claims.
	Definitions of Customized Durable Medical Equipment.
	Advance Determination of Medicare Coverage of Customized Durable Medical Equipment.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[January through March 2006]

Transmittal No.	Manual/subject/publication No.
	Items Eligible for Advance Determination of Medicare Coverage.
	Instructions for Submitting Advance Determination of Medicare Coverage Requests.
	Instructions for Processing Advance Determination of Medicare Coverage Requests.
	Affirmative Advance Determination of Medicare Coverage Decisions.
	Negative Advance Determination of Medicare Coverage Decisions.
	Durable Medical Equipment Program Safeguard Contractor Tracking.
143	Demand Letters.
144	Various Benefit Integrity Revisions.
	The Medicare Fraud Program.
	Requests for Information From Outside Organizations.
	Closing Cases.
	Affiliated Contractor and Program Safeguard Contractor Coordination on Voluntary Refunds.
	Immediate Advisements to the Office of the Inspector General/Office of Investigations.
145	Eliminate the Use of Surrogate Unique Physician Identification Numbers (OTH000) on Medicare Claims.
	Medicare Contractor Beneficiary and Provider Communications (CMS Pub. 100–09)
00	None.
	Medicare Managed Care (CMS Pub. 100–16)
78	Revisions to Chapter 5, "Quality Improvement."
79	Change in Managed Care Manual Chapter 11, Medicare Advantage Application Procedures and Contract Requirements.
80	Revisions to Chapter 13, Medicare Managed Care Beneficiary Grievances, Organization Determinations, and Appeals Applicable to Medicare Advantage Plans, Cost Plans, and Health Care Prepayment Plans (collectively referred to as Medicare health plans).
	Medicare Business Partners Systems Security (CMS Pub. 100–17)
07	Business Partner Systems Security Manual.
	Demonstrations (CMS Pub. 100–19)
37	Revisions to CR 3816—Low Vision Rehabilitation Demonstration.
38	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
39	This Transmittal is rescinded and replaced by Transmittal 41.
40	Amendments to Section 651 Chiropractic Services Demonstration—Changes to CPT 98943 rate published in CR 4225 Due to Passage of the Deficit Reduction Act, and revisions to CPT codes for 2006.
41	2006 Oncology Demonstration Project—Inclusion of Gynecological Oncology (Supplement to CR 4219).
42	2006 Oncology Demonstration Project.
43	Physician Voluntary Reporting Program (PVRP) Specification (Correction to CR 4183).
	One Time Notification (CMS Pub. 100–20)
200	Mandatory Transition to New Registry That Satisfies Medicare Data Reporting Requirements for Implantable Cardioverter Defibrilators.
201	Calculation of the Interim Payment of Indirect Medical Education Through the Inpatient Prospective Payment System Pricer for Hospitals That Received an Increase to their Full-time Equivalent Resident Caps Under Section 422 of the Medicare Modernization Act, Pub. L. 108–173.
202	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction.
203	Revision for Prospective Payment System Payment for Blood Clotting Factor Administered to Hemophilia Inpatients.
204	Stage 1 Use and Editing of National Provider Identifier Numbers Received in Electronic Data Interchange.
205	Beneficiary Change of Address.
206	Modifications/Additions to CR 3730, Frequent Hemodialysis Network Payments for Approved Clinical Trial Costs.
207	New 2006 Payment Rate for Services Paid Under the Medicare Physician Fee Schedule.
208	Analysis of Systems Changes Needed to Generate Unsolicited Responses to the Veterans Administration.
209	Q4080—Change in Healthcare Common Procedure Coding System Code Descriptor.
210	Creation of a Second Participation Enrollment Period for 2006.
211	Temporary 5 Percent Payment Increase for Home Health Services Fumished in a Rural Area for One Year Under the Home Health Prospective Payment System, Change of the Home Health Prospective Payment System Calendar Year (CY) 2006 Update from that of 2.8 Percent Update (Home Health Market Basket Update of 3.6 Minus 0.8 Percentage Point) to that of a Zero Percent Update.
212	Full Replacement of CR 3980, Termination of Existing Crossover Agreements as Trading Partners Transition to the National Coordination of Benefits Agreement Program (CR 3980 is rescinded.).
213	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction.
214	Procedures for Preventing Duplicate Crossover File Submissions to the Coordination of Benefits Contractor.
215	Payment for Power Mobility Device Claims.
216	Contractor Number Change for Noridian Administrative Services' Idaho and Oregon Part A Workloads.
217	2006 Revised American National Standards Institute X12N 837 Institutional Health Care Claim Companion Document.

ADDENDUM IV.—REGULATION DOCUMENTS PUBLISHED IN THE FEDERAL REGISTER

[January through March 2006]

Publication date	FR vol. 71 page No.	CFR parts affected	File code	Title of regulation
January 17, 2006	2617	419	CMS–1501–CN2	Medicare Program; Changes to the Hospital Outpatient Prospective Payment System and Calendar Year 2006 Payment Rates; Correction.
January 23, 2006	3616	412 and 424	CMS1306–P	Medicare Program, Impatient Psychiatric Facilities Prospective Payment System Payment Update for Rate Year Beginning July 1, 2006 (RY 2007).
January 27, 2006	4648	412	CMS–1485–P	Medicare Program; Prospective Payment System for Long-term Care Hospitals RY 2007: Proposed Annual Payment Rate Updates, Policy Changes, and Clarification.
January 27, 2006	4591		CMS–1318–N	Medicare Program; Meeting of the Practicing Physicians Advisory Council, March 6, 2006.
January 27, 2006	4590		CMS–1328–N	Medicare Program; February 15, 2006 Town Hall Meeting on the Practice Expense Methodology Including the Proposal From the Physician Fee Schedule Proposed Rule for Calendar Year 2006.
January 27, 2006	4589		CMS–3162–N	Medicare Program; Meeting of the Medicare Coverage Advisory Committee—March 30, 2006.
January 27, 2006	4586		CMS–3144–FN	Medicare Program; Approval of Adjustment in Payment Amounts for New Technology Intraocular Lenses Furnished by Ambulatory Surgical Centers.
January 27, 2006	4584		CMS–2228–PN	Medicare and Medicaid Programs; Application by the TUV Healthcare Specialists for Deeming Authority for Hospitals.
January 27, 2006	4518	414	CMS–1167–F	Medicare Program; Payment for Respiratory Assist Devices With Bi-Level Capability and a Backup Rate.
February 10, 2006	6991	413	CMS–1126–RCN	Medicare Program; Provider Bad Debt Payment; Extension of Timeline for Publication of Final Rule.
February 24, 2006	9564		CMS–2227–FN	Medicare and Medicaid Programs; Approval of Deeming Authority of the Accreditation Commission for Healthcare (ACHC) for Home Health Agencies.
February 24, 2006	9562		CMS–1332–NC	Medicare and Medicaid Programs; Announcement of an Application From a Hospital Requesting Waiver From Its Designated Organ Procurement Service Area.
February 24, 2006	9561		CMS–4115–N	Medicare Program; Request for Nominations for the Advisory Panel on Medicare Education.
February 24, 2006	9505	412 and 413	CMS–1306–CN	Medicare Program; Inpatient Psychiatric Facilities Prospective Payment System Payment Update for Rate Year Beginning July 1, 2006 (RY 2007); Correction and Extension of Comment Period.
February 24, 2006	9466	411 and 489	CMS–6272–IFC	Medicare Program; Medicare Secondary Payer Amendments.
February 24, 2006	9458	405, 410, 411, 413, 414, 424 and 426.	CMS–1502–F2 and CMS–1325–F.	Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2006 and Certain Provisions Related to the Competitive Acquisition Program of Outpatient Drugs and Biologicals Under Part B; Correcting Amendment.
March 3, 2006	11027	412 and 413	CMS–1306–CN	Medicare Program; Inpatient Psychiatric Facilities Prospective Payment Update for Rate Year Beginning July 1, 2006 (RY 2007); Correction and Extension of Comment Period.
March 15, 2006	13469	405, 410, 411, 413, 414, 424 and 426.	CMS–1502–F2 and CMS–1325–F.	Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2006 and Certain Provisions Related to the Competitive Acquisition Program of Outpatient Drugs and Biologicals Under Part B; Correcting Amendment.
March 24, 2006	14924		CMS–1281–N	Medicare Program; Public Meetings in Calendar Year 2006 for All New Public Requests for Revisions to the Healthcare Common Procedure Coding System (HCPCS) Coding and Payment Determinations.
March 24, 2006	14922		CMS–4117–PN	Medicare Program; Application for Deeming Authority for Medicare Advantage Health Maintenance Organizations and Local Preferred Provider Organizations Submitted by URAC.

ADDENDUM IV.—REGULATION DOCUMENTS PUBLISHED IN THE FEDERAL REGISTER—Continued

[January through March 2006]

Publication date	FR vol. 71 page No.	CFR parts affected	File code	Title of regulation
March 24, 2006	14903		CMS–9034–N	Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—October Through December 2005.
March 24, 2006	14901		CMS–3163–N	Medicare Program; Request for Nominations for Members of the Medicare Coverage Advisory Committee and Notice of Meeting of the Medicare Coverage Advisory Committee—May 18, 2006.
March 24, 2006	14900		CMS–1269–N7	Medicare Program; Emergency Medical Treatment and Labor Act (EMTALA) Technical Advisory Group (TAG): Announcement of a New Member.

Addendum V—National Coverage Determinations

[January Through March 2006]

A national coverage determination (NCD) is a determination by the Secretary with respect to whether or not a particular item or service is covered nationally under Title XVIII of the Social Security Act, but does not include a determination of what code, if any, is assigned to a particular item or service covered under this title, or determination with respect to the amount of payment made for a particular item or service so covered. We include below all of the NCDs that were issued during the quarter covered by this notice. The entries below include information concerning completed decisions as well as sections on program and decision memoranda, which also announce pending decisions or, in some cases, explain why it was not appropriate to issue an NCD. We identify completed decisions by the section of the NCDM in which the decision appears, the title, the date the publication was issued, and the effective date of the decision. Information on completed decisions as well as pending decisions has also been posted on the CMS Web site at *http://cms.hhs.gov/coverage*.

NATIONAL COVERAGE DETERMINATIONS

[January through March 2006]

Title	NCDM section	TN No.	Issue date	Effective date
Cardiac Catheterization Performed in Other Than a Hospital Setting	20.25	R46NCD	1/27/06	1/18/06
Tumor Antigen by Immunoassay CA125 to Add Primary Peritoneal Carcinoma	190.28	R47NCD	2/24/06	1/1/06
Technical Corrections to the NCD Manual	(*)	R48NCD	3/17/06	3/17/06
Microvolt T-Wave Alternans Diagnostic Testing	20.30	R49NCD	3/24/06	3/21/06
External Counterpulsation Therapy	20.20	R50NCD	3/31/06	3/20/06

*NA (not available).

Addendum VI—FDA-Approved Category B IDEs

[January Through March 2006]

Under the Food, Drug, and Cosmetic Act (21 U.S.C. 360c) devices fall into one of three classes. To assist CMS under this categorization process, the FDA assigns one of two categories to each FDA-approved IDE. Category A refers to experimental IDEs, and Category B refers to non-experimental IDEs. To obtain more information about the classes or categories, please refer to the **Federal Register** notice published on April 21, 1997 (62 FR 19328).

The following list includes all Category B IDEs approved by FDA during the first quarter, January through March 2006: G040138, G050054, G050157, G050185, G050189, G050201, G050209, G050212, G050213, G050215, G050219, G050226, G050246, G050248, G050250, G050251, G050253, G050260, G060004, G060005, G060010, G060011, G060014, G060015, G060016, G060018, G060020, G060022, G060023, G060024, G060025, G060027, G060028, G060030, G060031, G060043, G060046, G060047, G060048, and G060051.

Addendum VII—Approval Numbers for Collections of Information

Below we list all approval numbers for collections of information in the referenced sections of CMS regulations in Title 42; Title 45, Subchapter C; and Title 20 of the Code of Federal Regulations, which have been approved by the Office of Management and Budget:

OMB CONTROL NUMBERS

[Approved CFR Sections in Title 42, Title 45, and Title 20 (Note: Sections in Title 45 are preceded by "45 CFR," and sections in Title 20 are preceded by "20 CFR")]

OMB No.	Approved CFR sections
0938–0008	Part 424, Subpart C.
0938–0022	413.20, 413.24, 413.106.
0938–0023	424.103.
0938–0025	406.28, 407.27.
0938–0027	486.100–486.110.

OMB CONTROL NUMBERS—Continued

[Approved CFR Sections in Title 42, Title 45, and Title 20 (Note: Sections in Title 45 are preceded by "45 CFR," and sections in Title 20 are preceded by "20 CFR")]

OMB No.	Approved CFR sections
0938–0033	405.807.
0938–0034	405.821.
0938–0035	407.40.
0938–0037	413.20, 413.24.
0938–0041	408.6, 408.202.
0938–0042	410.40, 424.124.
0938–0045	405.711.
0938–0046	405.2133.
0938–0050	413.20, 413.24.
0938–0062	431.151, 435.151, 435.1009, 440.220, 440.250, 442.1, 442.10–442.16, 442.30, 442.40, 442.42, 442.100–442.119, 483.400–483.480, 488.332, 488.400, 498.3–498.5.
0938–0065	485.701–485.729.
0938–0074	491.1–491.11.
0938–0080	406.7, 406.13.
0938–0086	420.200–420.206, 455.100–455.106.
0938–0101	430.30.
0938–0102	413.20, 413.24.
0938–0107	413.20, 413.24.
0938–0146	431.800–431.865.
0938–0147	431.800–431.865.
0938–0151	493.1–493.2001.
0938–0155	405.2470.
0938–0193	430.10–430.20, 440.167.
0938–0202	413.17, 413.20.
0938–0214	411.25, 489.2, 489.20.
0938–0236	413.20, 413.24.
0938–0242	416.44, 418.100, 482.41, 483.270, 483.470.
0938–0245	407.10, 407.11.
0938–0251	406.7.
0938–0266	416.1–416.150.
0938–0267	485.56, 485.58, 485.60, 485.64, 485.66.
0938–0269	412.116, 412.632, 413.64, 413.350, 484.245.
0938–0270	405.376.
0938–0272	440.180, 441.300–441.305.
0938–0273	485.701–485.729.
0938–0279	424.5.
0938–0287	447.31.
0938–0296	413.170, 413.184.
0938–0301	413.20, 413.24, 415.60.
0938–0302	418.22, 418.24, 418.28, 418.56, 418.58, 418.70, 418.74, 418.83, 418.96, 418.100.
0938–0313	489.11, 489.20.
0938–0328	482.12, 482.13, 482.21, 482.22, 482.27, 482.30, 482.41, 482.43, 482.45, 482.53, 482.56, 482.57, 482.60, 482.61, 482.62, 482.66, 485.618, 485.631.
0938–0334	491.9, 491.10.
0938–0338	486.104, 486.106, 486.110.
0938–0354	441.50.
0938–0355	442.30, 488.26.
0938–0358	488.26.
0938–0359	412.40–412.52.
0938–0360	488.60.
0938–0365	484.10, 484.12, 484.14, 484.16, 484.18, , 484.36, 484.48, 484.52.
0938–0372	414.330.
0938–0378	482.60–482.62.
0938–0379	442.30, 488.26.
0938–0382	442.30, 488.26.
0938–0386	405.2100–405.2171.
0938–0391	488.18, 488.26, 488.28.
0938–0426	480.104, 480.105, 480.116, 480.134.
0938–0429	447.53.
0938–0443	478.18, 478.34, 478.36, 478.42.
0938–0444	1004.40, 1004.50, 1004.60, 1004.70.
0938–0445	412.44, 412.46, 431.630, 476.71, 476.74, 476.78.
0938–0447	405.2133.
0938–0448	405.2133, 45 CFR 5, 5b; 20 CFR Parts 401, 422E.
0938–0449	440.180, 441.300–441.310.
0938–0454	424.20.
0938–0456	412.105.
0938–0463	413.20, 413.24, 413.106.
0938–0467	431.17, 431.306, 435.910, 435.920, 435.94,–435.960.
0938–0469	417.126, 422.502, 422.516.

OMB CONTROL NUMBERS—Continued

[Approved CFR Sections in Title 42, Title 45, and Title 20 (Note: Sections in Title 45 are preceded by "45 CFR," and sections in Title 20 are preceded by "20 CFR")]

OMB No.	Approved CFR sections
0938–0470	417.143, 422.6.
0938–0477	412.92.
0938–0484	424.123.
0938–0501	406.15.
0938–0502	433.138.
0938–0512	486.304, 486.306, 486.307.
0938–0526	475.102, 475.103, 475.104, 475.105, 475.106.
0938–0534	410.38, 424.5.
0938–0544	493.1–493.2001.
0938–0564	411.32.
0938–0565	411.20–411.206.
0938–0566	411.404, 411.406, 411.408.
0938–0573	412.256.
0938–0578	447.534.
0938–0581	493.1–493.2001.
0938–0599	493.1–493.2001.
0938–0600	405.371, 405.378, 413.20.
0938–0610	417.436, 417.801, 422.128, 430.12, 431.20, 431.107, 483.10, 484.10, 489.102.
0938–0612	493.801, 493.803, 493.1232, 493.1233, 493.1234, 493.1235, 493.1236, 493.1239, 493.1241, 493.1242, 493.1249, 493.1251, 493,1252, 493.1253, 493.1254, 493.1255, 493.1256, 493.1261, 493.1262, 493.1263, 493.1269, 493.1273, 493.1274, 493.1278, 493.1283, 493.1289, 493.1291, 493.1299.
0938–0618	433.68, 433.74, 447.272.
0938–0653	493.1771, 493.1773, 493.1777.
0938–0657	405.2110, 405.2112.
0938–0658	405.2110, 405.2112.
0938–0667	482.12, 488.18, 489.20, 489.24.
0938–0686	493.551–493.557.
0938–0688	486.301–486.325.
0938–0691	412.106.
0938–0692	466.78, 489.20, 489.27.
0938–0701	422.152.
0938–0702	45 CFR 146.111, 146.115, 146.117, 146.150, 146.152, 146.160, 146.180.
0938–0703	45 CFR 148.120, 148.122, 148.124, 148.126, 148.128.
0938–0714	411.370–411.389.
0938–0717	424.57.
0938–0721	410.33.
0938–0723	421.300–421.316.
0938–0730	405.410, 405.430, 405.435, 405.440, 405.445, 405.455, 410.61, 415.110, 424.24.
0938–0732	417.126, 417.470.
0938–0734	45 CFR 5b
0938–0739	413.337, 413.343, 424.32, 483.20.
0938–0749	424.57.
0938–0753	422.000–422.700.
0938–0754	441.151, 441.152.
0938–0758	413.20, 413.24.
0938–0760	484.55, 484.205, 484.245, 484.250.
0938–0761	484.11, 484.20.
0938–0763	422.250, 422.252, 422.254, 422.256, 422.258, 422.262, 422.264, 422.266, 422.270, 422.300, 422.304, 422.306, 422.308, 422.310, 422.312, 422.314, 422.316, 422.318, 422.320, 422.322, 422.324, 423.251, 423.258, 423.265, 423.272, 423.286, 423.293, 423.301, 423.308, 423.315, 423.322, 423.329, 423.336, 423.343, 423.346, 423.350.
0938–0770	410.2.
0938–0778	422.111, 422.564.
0938–0779	417.126, 417.470, 422.64, 422.210.
0938–0781	411.404, 484.10.
0938–0786	438.352, 438.360, 438.362, 438.364.
0938–0790	460.12–460.210.
0938–0792	491.8, 491.11.
0938–0796	422.64.
0938–0798	413.24, 413.65, 419.42.
0938–0802	419.43.
0938–0818	410.141–410.146, 414.63.
0938–0829	422.568.
0938–0832	Parts 489 and 491.
0938–0833	483.350–483.376.
0938–0841	431.636, 457.50, 457.60, 457.70, 457.340, 457.350, 457.431, 457.440, 457.525, 457.560, 457.570, 457.740, 457.750, 457.810, 457.940, 457.945, 457.965, 457.985, 457.1005, 457.1015, 457.1180.
0938–0842	412.23, 412.604, 412.606, 412.608, 412.610, 412.614, 412.618, 412.626, 413.64.
0938–0846	411.352–411.361.
0938–0857	Part 419.
0938–0860	Part 419.

OMB CONTROL NUMBERS—Continued

[Approved CFR Sections in Title 42, Title 45, and Title 20 (Note: Sections in Title 45 are preceded by "45 CFR," and sections in Title 20 are preceded by "20 CFR")]

OMB No.	Approved CFR sections
0938–0866	45 CFR Part 162.
0938–0872	413.337, 483.20.
0938–0873	422.152.
0938–0874	45 CFR Parts 160 and 162.
0938–0878	Part 422 Subparts F and G.
0938–0887	45 CFR 148.316, 148.318, 148.320.
0938–0897	412.22, 412.533.
0938–0907	412.230, 412.304, 413.65.
0938–0910	422.620, 422.624, 422.626.
0938–0911	426.400, 426.500.
0938–0915	421.120, 421.122.
0938–0916	483.16.
0938–0920	438.6, 438.8, 438.10, 438.12, 438.50, 438.56, 438.102, 438.114, 438.202, 438.206, 438.207, 438.240, 438.242, 438.402, 438.404, 438.406, 438.408, 438.410, 438.414, 438.416, 438.604, 438.710, 438.722, 438.724, 438.810.
0938–0921	414.804.
0938–0931	45 CFR 142.408, 162.408, and 162.406.
0938–0933	438.50.
0938–0935	422 Subparts F and K.
0938–0936	423.
0938–0939	405.502.
0938–0944	422.250, 422.252, 422.254, 422.256, 422.258, 422.262, 422.264, 422.266, 422.270, 422.300, 422.304, 422.306, 422.308, 422.310, 422.312, 422.314, 422.316, 422.318, 422.320, 422.322, 422.324, 423.251, 423.258, 423.265, 423.272, 423.279, 423.286, 423.293, 423.301, 423.308, 423.315, 423.322, 423.329, 423.336, 423.343, 423.346, 423.350.
0938–0950	405.910.
0938–0951	423.48.
0938–0953	405.1200 and 405.1202.
0938–0954	414.906, 414.908, 414.910, 414.914, 414.916.
0938–0957	Part 423 Subpart R.
0938–0964	403.460, 411.47.
0938–0975	423.562(a).
0938–0976	423.568.
0938–0977	Part 423 Subpart R.
0938–0978	423.464.
0938–0982	422.310, 423.301, 423.322, 423.875, 423.888.
0938–0990	423.56.
0938–0992	423.505, 423.514.

Addendum VIII—Medicare-Approved Carotid Stent Facilities

[January Through March 2006]

On March 17, 2005, we issued our decision memorandum on carotid artery stenting. We determined that carotid artery stenting with embolic protection is reasonable and necessary only if performed in facilities that have been determined to be competent in performing the evaluation, procedure, and follow-up necessary to ensure optimal patient outcomes. We have created a list of minimum standards for facilities modeled in part on professional society statements on competency. All facilities must at least meet our standards in order to receive coverage for carotid artery stenting for high risk patients.

Effective Date 1/4/06

Grant Medical Center
111 S. Grant Avenue
Columbus, OH 43215
Medicare Provider #360017

Effective Date 1/6/06

Genesis HealthCare System
2951 Maple Avenue
Zanesville, OH 43701
Medicare Provider #360039

St. Joseph Regional Health Center
2801 Franciscan Drive
Bryan, TX 77802
Medicare Provider #450011

Washington Hospital Healthcare System
2000 Mowry Avenue
Fremont, CA 94538–1716
Medicare Provider #050195

Effective Date 1/12/06

Sparrow Hospital
1215 E. Michigan
P.O. Box 30480
Lansing, MI 48909–7980
Medicare Provider #230230

St. Mary's of Michigan Hospital
800 S. Washington Ave.
Saginaw, MI 48601–2524
Medicare Provider #230077

Effective Date 1/18/06

Michael Reese Hospital
2929 South Ellis Avenue
Chicago, IL 06016
Medicare Provider #140075

St. Vincent Infirmary Medical Center
Two St. Vincent Circle
Little Rock, AR 72205–5499
Medicare Provider #040007

St. Vincent Mercy Medical Center
2213 Cherry Street
Toledo, OH 43608–2691
Medicare Provider #360112

Touro Infirmary
1401 Foucher Street
New Orleans, LA 70115–3593
Medicare Provider #190046

Effective Date 1/20/06

Carroll Hospital Center
200 Memorial Avenue
Westminster, MD 21157
Medicare Provider #210033

DeTar Healthcare System
P.O. Box 2089
Victoria, TX 77902
Medicare Provider #450147

Long Beach Memorial Medical Center
2801 Atlantic Avenue
Long Beach, CA 90806–1737
Medicare Provider #050485

Effective Date 1/23/06

California Pacific Medical Center-Pacific Campus
2333 Buchanan Street
P.O. Box 7999
San Francisco, CA 94102
Medicare Provider #050047

MacNeal Hospital
3249 South Oak Park Avenue
Berwyn, IL 60402
Medicare Provider #140054

Silver Cross Hospital
1200 Maple Road
Joliet, IL 60432
Medicare Provider #140213

St. Joseph Hospital Kirkwood
525 Couch Avenue
Kirkwood, MO 63122–5594
Medicare Provider #260081

Effective Date 1/24/06

North Hills Hospital
4401 Booth Calloway Road
North Richland Hills, TX 76180
Medicare Provider #450087

Effective Date 1/26/06

Advocate Good Samaritan Hospital
3815 Highland Avenue
Downers Grove, IL 60515–1590
Medicare Provider #140288

Saint Joseph Regional Medical Center
801 East LaSalle Avenue
South Bend, IN 46617
Medicare Provider #150012

St. Francis Health Center-Topeka Kansas
1700 SW 7th Street
Topeka, KS 66606–1690
Medicare Provider #170016

Effective Date 2/1/06

Centro Cardiovascular de Puerto Rico y del Caribe
P.O. Box 366528
San Juan, Puerto Rico 00936–6528
Medicare Provider #400124

Glenwood Regional Medical Center
P.O. Box 35805
West Monroe, LA 71294–5805
Medicare Provider #190160

Southern Ocean County Hospital
1140 Route 72 West
Manahawkin, NJ 08050
Medicare Provider #310113

Effective Date 2/2/06

CHRISTUS Hospital
2830 Calder Avenue
P.O. Box 5405
Beaumont, TX 77726–5405
Medicare Provider #450034

Potomac Hospital
2300 Opitz Boulevard
Woodbridge, VA 22191
Medicare Provider #490113

Trinity Hospitals
One Burdick Expressway West
P.O. Box 5020
Minot, ND 58702–5020
Medicare Provider #350006

Effective Date 2/3/06

Beloit Memorial Hospital
1969 West Hart Road
Beloit, WI 53511
Medicare Provider #520100

Effective Date 2/6/06

Blount Memorial Hospital
907 E. Lamar Alexander Pkwy
Maryville, TN 37804–5016
Medicare Provider #440011

Centinela Freeman Regional Medical Center, Centinela Campus
555 East Hardy Street
Inglewood, CA 90301
Medicare Provider #050739

Florida Medical Center
5000 West Oakland Park Blvd
Ft. Lauderdale, FL 33313
Medicare Provider #100212

Renaissance Hospital
5500 39th Street
Groves, TX 77619
Medicare Provider #450123

Effective Date 2/8/06

Anaheim Memorial Medical Center
1111 West La Palma Avenue
Anaheim, CA 92801–2881
Medicare Provider #050226

Baylor Regional Medical Center at Plano
4700 Alliance Boulevard
Plano, TX 75093–5323
Medicare Provider #450890

UMass Memorial Medical Center
University Campus 55 Lake Avenue North
Worcester, MA 01655
Medicare Provider #220163

Lake Forest Hospital
660 North Westmoreland Road
Lake Forest, IL 60045–9989
Medicare Provider #140130

Effective Date 2/10/06

OSF Saint Anthony Medical Center
5666 East State Street
Rockford, IL 61108
Medicare Provider #140233

St. Vincent's Hospital
P.O. Box 12407
Birmingham, AL 35202–2407
Medicare Provider #010056

Effective Date 2/17/06

Carondelet St. Joseph's Hospital
350 North Wilmot Road
Tucson, AZ 85711–2678
Medicare Provider #030011

Cedars-Sinai Medical Center
8700 Beverly Boulevard
Los Angeles, CA 90048
Medicare Provider #050625

Hemet Valley Medical Center
1117 East Devonshire Avenue
Hemet, CA 92543
Medicare Provider #050390

North Colorado Medical Center
1801 16th Street
Greeley, CO 80631
Medicare Provider #060001

Saddleback Memorial Medical Center
24451 Health Center Drive
Laguna Hills, CA 92653
Medicare Provider #050603

Southwest Florida Regional Medical Center
2727 Winkler Avenue
Fort Myers, FL 33901
Medicare Provider #100220

Effective Date 2/22/06

Bridgeport Hospital
267 Grant Street
Bridgeport, CT 06610
Medicare Provider #070010

Hillcrest Baptist Medical Center
3000 Herring Avenue
P.O. Box 5100
Waco, TX 76708–0100
Medicare Provider #450101

MCSA, LLC
dba Medical Center of South Arkansas
700 West Grove
El Dorado, AR 71730
Medicare Provider #040088

Union Hospital
659 Boulevard
Dover, OH 44622
Medicare Provider #360010

West Jefferson Medical Center
1101 Medical Center Boulevard
Marrero, LA 70072
Medicare Provider #190039

Effective Date 2/24/06

Aventura Hospital and Medical Center
20900 Biscayne Boulevard
Aventura, FL 33180
Medicare Provider #100131

CHRISTUS St. John Hospital
18300 St. John Drive
Nassau Bay, TX 77058
Medicare Provider #450709

Flowers Hospital
4370 West Main Street
P.O. Box 6907
Dothan, AL 36305
Medicare Provider #010055

North Okaloosa Medical Center
151 Redstone Avenue, East
Crestview, FL 32539
Medicare Provider #100122

St. Luke's Community Medical Center
71200 St. Luke's Way, Suite 230
The Woodlands, TX 77384
Medicare Provider #450862

University Hospital and Medical Center
7201 North University Drive
Tamarac, FL 33321
Medicare Provider #100224

Effective Date 3/6/06

Fort Hamilton Hospital
630 Eaton Avenue
Hamilton, OH 45013
Medicare Provider #360132

INTEGRIS Southwest Medical Center
4401 South Western
Oklahoma City, OK 73109
Medicare Provider #370106

Memorial Hermann Southeast Hospital
11800 Astoria Boulevard
Houston, TX 77089
Medicare Provider #450184

Temple University Hospital
3401 North Broad Street
Philadelphia, PA 19140
Medicare Provider #390027

UPMC Passavant
9100 Babcock Boulevard
Pittsburgh, PA 15237–5842

Medicare Provider #107920

Effective Date 3/9/06

Enloe Medical Center
1531 Esplanade
Chico, CA 95926
Medicare Provider #050039

Northwest Medical Center—Washington County
609 W. Maple Avenue
Springdale, AR 72764
Medicare Provider #040022

Effective Date 3/13/06

Northwest Medical Center—Bentonville
3000 Medical Center Parkway
Bentonville, AR 72712
Medicare Provider #040138

St. Rose Dominican Hospitals, Siena Campus
3001 St. Rose Parkway
Henderson, NV 89052
Medicare Provider #290045

Effective Date 3/20/06

Bayshore Community Hospital
727 North Beers Street
Holmdel, NJ 07733
Medicare Provider #310112

JFK Medical Center
65 James Street
Edison, NJ 08818
Medicare Provider #310108

Lakewood Regional Medical Center
P.O. Box 6070
3700 East South Street
Lakewood, CA 90712
Medicare Provider #050581

Memorial Hospital of Burlington
252 McHenry Street
P.O. Box 400
Burlington, WI 53105–0400
Medicare Provider #520059

Methodist Heart Hospital
7700 Floyd Curl Drive
San Antonio, TX 78229
Medicare Provider #450388

Methodist Specialty and Transplant Hospital
8026 Floyd Curl Drive
San Antonio, TX 78229
Medicare Provider #450388

Muhlenberg Regional Medical Center
Park Avenue & Randolph Road
Plainfield, NJ 07061
Medicare Provider #310063

Effective Date 3/23/06

Danbury Hospital
24 Hospital Avenue
Danbury, CT 06810
Medicare Provider #070033

Lake Hospital System, Inc.
10 East Washington Street
Painesville, OH 44077–3472
Medicare Provider #360098

Sinai Hospital of Baltimore
2401 West Belvedere Avenue
Baltimore, MD 21215–5271
Medicare Provider #210012

Sutter General Hospital dba Sutter Memorial Hospital
5151 F Street
Sacramento, CA 95819
Medicare Provider #050108

Valley Hospital Medical Center
620 Shadow Lane
Las Vegas, NV 89106
Medicare Provider #290021

Warren Hospital
185 Roseberry Street
Phillips, NJ 08865
Medicare Provider #310060

Effective Date 3/28/06

Aurora Medical Center—Kenosha
10400 75th Street
Kenosha, WI 53142–7884
Medicare Provider #520189

Caritas Good Samaritan Medical Center
235 N. Pearl Street
Brockton, MA 02301
Medicare Provider #220111

Medical City Dallas Hospital
7777 Forest Lane
Dallas, TX 75230
Medicare Provider #450647

Southeast Missouri Hospital
1701 Lacey Street
Cape Cirardeau, MO 63701
Medicare Provider #260110

St. Joseph Hospital
360 Broadway
P.O. Box 403
Bangor, ME 04402–0403
Medicare Provider #200001

[FR Doc. 06–5486 Filed 6–22–06; 8:45 am]
BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1295–N]

Medicare Program; Second Biannual Meeting of the Advisory Panel on Ambulatory Payment Classification (APC) Groups—August 23, 24, and 25, 2006

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (DHHS).

ACTION: Notice.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act (FACA) (5 U.S.C. Appendix 2), this notice announces the second biannual meeting of the Advisory Panel on Ambulatory Payment Classification (APC) Groups (the Panel) for 2006. The purpose of the Panel is to review the APC groups and their associated weights and to advise the Secretary of Health and Human Services (the Secretary) and the Administrator of the Centers for Medicare & Medicaid Services (CMS) concerning the clinical integrity of the APC groups and their associated weights. The advice provided by the Panel will be considered as we prepare the final rule that updates the hospital Outpatient Prospective Payment System (OPPS) for CY 2007.

DATES: *Meeting Dates:* The second biannual meeting for 2006 is scheduled for the following dates and times:

- Wednesday, August 23, 2006, 1 p.m. to 5 p.m. (e.d.t.).
- Thursday, August 24, 2006, 8 a.m. to 5 p.m. (e.d.t.).
- Friday, August 25, 2006, 8 a.m. to 12 noon (e.d.t.).

Note: [1] We anticipate that there will be a meeting on Friday, August 25, 2006. However, if the business of the Panel concludes on Thursday, August 24, 2006, the Panel will not meet on August 25, 2006.

[2] The times listed above are approximate times; consequently, the meetings may last longer than listed above.

Deadlines:

Deadline for Hardcopy Comments/ Suggested Agenda Topics—5 p.m. (e.d.t.), Wednesday, August 2, 2006.

Deadline for Hardcopy Presentations—5 p.m. (e.d.t.), Wednesday, August 2, 2006.

Deadline for Attendance Registration—5 p.m. (e.d.t.), Wednesday, August 9, 2006.

Deadline for Special Accommodations—5 p.m. (e.d.t.), Wednesday, August 9, 2006.

Submission of Materials to the Designated Federal Officer (DFO): Because of staffing and resource limitations, we cannot accept written comments and presentations by FAX, nor can we print written comments and presentations received electronically for dissemination at the meeting.

Only hardcopy comments and presentations can be reproduced for public dissemination. All hardcopy presentations *must be accompanied by Form CMS–20017.* The form is now available through the CMS Forms Web site. The URL for linking to this form is as follows: *http://www.cms.hhs.gov/cmsforms/downloads/cms20017.pdf.*

We are also requiring electronic versions of the written comments and presentations (in addition to the hardcopies), so we can send them electronically to the Panel members for their review before the meeting.

Consequently, *you must send BOTH electronic and hardcopy versions of your presentations and written comments by the prescribed deadlines.* (Electronic transmission must be sent to the e-mail address below, and hardcopies—accompanied by Form CMS–20017—must be mailed to the Designated Federal Officer [DFO], as specified in the **FURTHER FURTHER INFORMATION CONTACT** section of this notice.)

ADDRESSES: The meeting will be held in the Auditorium, 1st Floor, CMS Central Office, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

FOR FURTHER INFORMATION CONTACT: For inquiries regarding the meeting; meeting registration; and hardcopy submissions of oral presentations, agenda items, and comments, please contact the DFO:

Shirl Ackerman-Ross, DFO, CMS, CMM, HAPG, DOC, 7500 Security Boulevard, Mail Stop C4–05–17, Baltimore, MD 21244–1850. Phone: (410) 786–4474.*

(*Note: When delivering hardcopies of presentations, if no one answers at the above phone number, please call (410) 786–4532.)

- E-mail address for comments, presentations, and registration requests is *APCPanel@cms.hhs.gov*.
- News media representatives must contact our Public Affairs Office at (202) 690–6145.

Advisory Committees' Information Lines: The phone numbers for the CMS Federal Advisory Committee Hotline are 1–877–449–5659 (toll free) and (410) 786–9379 (local).

Web Sites: Please search the CMS Web site at *http://www.cms.hhs.gov/FACA/05_AdvisoryPanelonAmbulatoryPaymentClassificationGroups.asp#TopOfPage* in order to obtain the following:

- Additional information on the APC meeting agenda topics,
- Updates to the Panel's activities,
- Copies of the current Charter, and
- Membership requirements.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of the Department of Health and Human Services (the Secretary) is required by section 1833(t)(9)(A) of the Act, as amended and redesignated by sections 201(h) and 202(a)(2) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (BBRA) (Pub. L. 106–113), respectively, to establish and consult with an expert, outside advisory panel on Ambulatory Payment Classification (APC) groups. The APC Panel meets up to three times annually to review the APC groups and to provide technical advice to the Secretary and the Administrator concerning the clinical integrity of the groups and their associated weights. All members must have technical expertise that enables them to participate fully in the work of the Panel. The expertise encompasses hospital payment systems, hospital medical-care delivery systems, outpatient payment requirements, APCs, Current Procedural Terminology (CPT) codes, and the use and payment of drugs and medical devices in the outpatient setting, as well as other forms of relevant expertise. Details regarding membership requirements for the APC Panel can be found on the CMS Web site as listed above under Web sites.

We will consider the technical advice provided by the Panel as we prepare the final rule that updates the hospital Outpatient Prospective Payment System (OPPS) for CY 2007.

The Panel presently consists of the following members:

- E.L. Hambrick, M.D., J.D., Chair.
- Marilyn Bedell, M.S., R.N., O.C.N.
- Gloryanne Bryant, B.S., R.H.I.A., R.H.I.T., C.C.S.
- Albert Brooks Einstein, Jr., M.D., F.A.C.P.
- Hazel Kimmel, R.N., C.C.S., C.P.C.
- Sandra J. Metzler, M.B.A., R.H.I.A., C.P.H.Q.
- Thomas M. Munger, M.D., F.A.C.C.
- Frank G. Opelka, M.D., F.A.C.S.
- Louis Potters, M.D., F.A.C.R.
- James V. Rawson, M.D.
- Lou Ann Schraffenberger, M.B.A., R.H.I.A., C.C.S.-P.
- Judie S. Snipes, R.N., M.B.A., F.A.C.H.E.
- Lynn R. Tomascik, R.N., M.S.N., C.N.A.A.
- Timothy Gene Tyler, Pharm.D.
- Kim Allan Williams, M.D., F.A.C.C., F.A.B.C.
- Robert Matthew Zwolak, M.D., Ph.D., F.A.C.S.

II. Agenda

The agenda for the August 2006 meeting will provide for discussion and comment on the following topics as designated in the Panel's Charter:

- Reconfiguration of APCs (for example, splitting of APCs, moving Healthcare Common Procedure Coding System (HCPCS) codes from one APC to another and moving HCPCS codes from new technology APCs to clinical APCs).
- Evaluation of APC weights.
- Packaging device and drug costs into APCs: Methodology, effect on APCs, and need for reconfiguring APCs based upon device and drug packaging.
- Removal of procedures from the inpatient list for payment under the OPPS.
- Use of single and multiple procedure claims data.
- Other technical issues concerning APC structure.

The subject matter before the Panel shall be limited to these and related topics. Issues related to calculation of the OPPS conversion factor, charge compression, pass-through payments, or wage adjustments are not related to the subject matter that the Panel reviews.

The Panel may use data collected or developed by entities and organizations, other than DHHS and CMS, in conducting its review.

III. Written Comments and Suggested Agenda Topics

Send hardcopy written comments and suggested agenda topics to the DFO at the address indicated above. These items must be received by the DFO by 5 p.m. (e.d.t.), Wednesday, August 2, 2006.

Written comments and suggested agenda topics for the August 2006 APC Panel meeting must fall within the subject categories outlined in the Panel's Charter as listed in the Agenda section of this notice.

IV. Oral Presentations

Individuals or organizations wishing to make 5-minute oral presentations must submit hardcopies of their presentations to the DFO by 5 p.m. (e.d.t.), Wednesday, August 2, 2006, in order to be considered.

The number of oral presentations may be limited by the time available. Oral presentations should not exceed 5 minutes in length.

The Chair may further limit time allowed for presentations due to the number of oral presentations, if necessary.

V. Presenter and Presentation Information

All presenters must submit Form CMS–20017. Hardcopies are required for oral presentations; however, electronic submissions of Form CMS–20017 are optional. The DFO must receive the following information from those wishing to make oral presentations:

- Form CMS–20017 completed with all pertinent information identified on the first page of the presentation.
- Hardcopy of presentation.
- Electronic copy of presentation.

(Those wishing to submit comments only must send hard-copy and electronic versions of their comments, but they are not required to submit Form CMS–20017.)

VI. Oral Comments

In addition to formal oral presentations, there will be opportunity during the meeting for public oral comments, which will be limited to 1 minute for each individual and a total of 5 minutes per organization.

VII. Meeting Attendance

The meeting is open to the public; however, attendance is limited to space available. Attendance will be determined on a first-come, first-served basis.

Persons wishing to attend this meeting, which is located on Federal property, must e-mail the Panel DFO to register in advance no later than 5 p.m. (e.d.t.), Wednesday, August 9, 2006. A confirmation will be sent to the requester(s) via return e-mail.

The following information must be e-mailed or telephoned to the DFO by the date and time above:

- Name(s) of attendee(s),
- Title(s),
- Organization,
- E-mail address(es), and
- Telephone number(s).

VIII. Security, Building, and Parking Guidelines

Persons attending the meeting must present photographic identification to the Federal Protective Service or Guard Service personnel before they will be allowed to enter the building.

Security measures will include inspection of vehicles, inside and out, at the entrance to the grounds. In addition, all persons entering the building must pass through a metal detector. All items brought to CMS, including personal items such as desktops, cell phones, palm pilots, etc., are subject to physical inspection.

Individuals who are not registered in advance will not be permitted to enter the building and will be unable to attend the meeting. (Note: Presenters must also be registered for attendance at the meeting.) The public may enter the building 30–45 minutes before the meeting convenes each day. (The meeting on Wednesday, August 23, 2006, convenes at 1 p.m.)

All visitors must be escorted in areas other than the lower and first-floor levels in the Central Building.

Parking permits and instructions are issued upon arrival by the guards at the main entrance.

IX. Special Accommodations

Individuals requiring sign-language interpretation or other special accommodations must send a request for these services to the DFO by 5 p.m. (e.d.t.), Wednesday, August 9, 2006.

Authority: Section 1833(t)(9) of the Act (42 U.S.C. 13951(t)). The Panel is governed by the provisions of Public Law 92–463, as amended (5 U.S.C. Appendix 2).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare-Hospital Insurance; and Program No. 93.774, Medicare-Supplementary Medical Insurance Program).

Dated: June 16, 2006.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. E6–9905 Filed 6–22–06; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3170–N]

Medicare Program; Meeting of the Medicare Coverage Advisory Committee—August 30, 2006

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces a public meeting of the Medicare Coverage Advisory Committee (MCAC) ("Committee"). Among other things, the Committee provides advice and recommendations about whether scientific evidence is adequate to determine whether certain medical items and services are reasonable and necessary under the Medicare statute. This meeting will discuss the following issues: (1) Glycemic control and the use of glucose monitors by which sensors automatically monitor glucose levels in body fluids; and (2) whether and how the frequency of outpatient glucose monitoring is related to glycemic control and clinical outcomes in the various Medicare populations.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. App. 2, section 10(a)).

DATES: The public meeting will be held on Wednesday, August 30, 2006 from 7:30 a.m. until 4:30 p.m., e.s.t.

Deadlines: Deadline for Presentations and Comments: Send written comments and presentations to the address listed in the **ADDRESSES** section of this notice by 5 p.m., e.s.t. on July 31, 2006. [Please note that the presentation you submit will be final, as no further changes to the presentation can be accepted after submission.]

Deadline for Meeting Registration: For security reasons, individuals wishing to attend this meeting must register by 5 p.m., e.s.t. on August 24, 2006.

Special Accommodations: Persons attending the meeting who are hearing or visually impaired, or have a condition that requires special assistance or accommodations, are asked to notify the Executive Secretary (see **FOR FURTHER INFORMATION CONTACT**) by August 24, 2006.

ADDRESSES: *Meeting Location:* The meeting will be held in the main auditorium of the Centers for Medicare & Medicaid Services, 7500 Security Blvd., Baltimore, MD 21244.

Registration: Register by contacting Maria Ellis (410–786–0309; *Maria.Ellis@cms.hhs.gov*; Centers for Medicare & Medicaid Services, OCSQ—Coverage and Analysis Group, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244).

Presentation and Comment Submission: Submit presentation and comments to Michelle Atkinson, Centers for Medicare & Medicaid Services, OCSQ—Coverage and Analysis Group, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244.

Web Site: You may access up-to-date information on this meeting at *http://www.cms.hhs.gov/FACA/02_MCAC.asp#TopOfPage*.

Presentations And Comments: Interested persons may present data, information, or views orally or in writing on issues pending before the Committee. Please submit written comments and presentations to the Executive Secretary at the address listed in the **ADDRESSES** section of this notice.

FOR FURTHER INFORMATION CONTACT: Michelle Atkinson, Executive Secretary for MCAC, (410–786–2881; *Michelle.Atkinson@cms.hhs.gov*; Centers for Medicare & Medicaid Services, OCSQ—Coverage and Analysis Group, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244).

SUPPLEMENTARY INFORMATION:

I. Meeting Topic

On December 14, 1998, we published a notice in the **Federal Register** (63 FR 68780) to describe the Medicare Coverage Advisory Committee (MCAC), which provides advice and recommendations to CMS about clinical issues.

This notice announces the August 30, 2006 public meeting of the Committee. During this meeting, the Committee will discuss evidence and hear presentations and public comments concerning outpatient glycemic control (as measured by glycated hemoglobin), the frequency of glucose monitoring, and clinical outcomes in the Medicare populations. Specifically, the Committee will review the available data on the ability of glycemic control to blunt the progression of disease, reverse diabetic complications, and alter morbidity and mortality in the Medicare populations; whether the effects of glycemic control (if any) are linear and mitigated by increased hypoglycemic risk; and whether the frequency of

outpatient glucose monitoring is a determinant of glycemic control and clinical outcomes in the Medicare populations. The role of variables such as the type of diabetes, the therapeutic regimen employed, the age of hyperglycemic onset, the duration of diabetes, the duration of poor glycemic control, the level of hyperglycemia, and concomitant disease will be discussed. The impediments to glucose monitoring and use of monitoring data will be considered. In addition to evaluating the available data, the Committee will identify areas in which the current data are deficient and in which additional research is warranted.

Background information about this topic, including panel materials, is available on the Internet at *http://www.cms.hhs.gov/coverage/*.

II. Meeting Procedures

This meeting is open to the public. The Committee will hear oral presentations from the public for approximately 45 minutes. The Committee may limit the number and duration of oral presentations to the time available. If you wish to make formal presentations, you must notify the Executive Secretary (see **FOR FURTHER INFORMATION CONTACT**) and submit the following to the address listed in the **ADDRESSES** section of this notice by the date listed in the *Deadlines* section of this notice: (1) A brief statement of the general nature of the evidence or arguments you wish to present; (2) the names and addresses of proposed participants; and (3) a written copy of your presentation. Your presentation should consider the questions we have posed to the Committee and focus on the issues specific to the topic. The questions will be available on the following Web site: *http://www.cms.hhs.gov/FACA/02_MCAC.asp#TopOfPage*. We require that you declare at the meeting whether you have any financial involvement with manufacturers of any items or services being discussed (or with their competitors).

After the public and CMS presentations, the Committee will deliberate openly on the topic. Interested persons may observe the deliberations, but the Committee will not hear further comments during this time except at the request of the chairperson. The Committee will also allow a 15 minute unscheduled open public session for any attendee to address issues specific to the topic. At the conclusion of the day, the members will vote and the Committee will make its recommendation.

III. Registration Instructions

The Coverage and Analysis Group is coordinating meeting registration. While there is no registration fee, individuals must register to attend. Register by contacting Maria Ellis at the address listed in the **ADDRESSES** section of this notice. Please provide your name, address, organization, telephone and fax numbers, and e-mail address.

You will receive a registration confirmation with instructions for your arrival at the CMS complex. You will be notified if the seating capacity has been reached.

This meeting is located on Federal property; therefore, for security reasons, any individuals wishing to attend this meeting must register by 5 p.m. e.s.t. on August 24, 2006.

IV. Security, Building, and Parking Guidelines

This meeting will be held in a Federal government building; therefore, Federal security measures are applicable. In planning your arrival time, we recommend allowing additional time to clear security.

In order to gain access to the building and grounds, individuals must present photographic identification to the Federal Protective Service or Guard Service personnel before being allowed entrance.

Security measures also include inspection of vehicles, inside and out, at the entrance to the grounds. In addition, all individuals entering the building must pass through a metal detector. All items brought to CMS, whether personal or for the purpose of demonstration or to support a demonstration, are subject to inspection. We cannot assume responsibility for coordinating the receipt, transfer, transport, storage, set-up, safety, or timely arrival of any personal belongings or items used for demonstration or to support a demonstration.

Parking permits and instructions will be issued upon arrival.

Note: Individuals who are not registered in advance will not be permitted to enter the building and will be unable to attend the meeting. The public may not enter the building earlier than 30 to 45 minutes prior to the convening of the meeting.

All visitors must be escorted in areas other than the lower and first floor levels in the Central Building.

Authority: 5 U.S.C. App. 2, section 10(a).

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: June 7, 2006.

Barry M. Straube,

Chief Medical Officer and Director, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services.

[FR Doc. E6–9480 Filed 6–22–06; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2004N–0226]

Food and Drug Administration Modernization Act of 1997: Modifications to the List of Recognized Standards, Recognition List Number: 015

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a publication containing modifications the agency is making to the list of standards FDA recognizes for use in premarket reviews (FDA recognized consensus standards). This publication, entitled "Modifications to the List of Recognized Standards, Recognition List Number: 015" (Recognition List Number: 015), will assist manufacturers who elect to declare conformity with consensus standards to meet certain requirements for medical devices.

DATES: Submit written or electronic comments concerning this document at any time. See section VII of this document for the effective date of the recognition of standards announced in this document.

ADDRESSES: Submit written requests for single copies of "Modifications to the List of Recognized Standards, Recognition List Number: 015" to the Division of Small Manufacturers, International and Consumer Assistance, Center for Devices and Radiological Health (HFZ–220), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your requests, or fax your request to 301–443–8818. Submit written comments concerning this document, or recommendations for additional standards for recognition, to the contact person (see **FOR FURTHER INFORMATION CONTACT**). Submit electronic comments by e-mail: *standards@cdrh.fda.gov*. This document may also be accessed on FDA's Internet site at *http://www.fda.gov/cdrh/fedregin.html*. See section VI of this document for electronic access to the

searchable database for the current list of FDA recognized consensus standards, including Recognition List Number: 015 modifications and other standards related information.

FOR FURTHER INFORMATION CONTACT: Carol L. Herman, Center for Devices and Radiological Health (HFZ–84), Food and Drug Administration, 12720 Twinbrook Pkwy., MD 20857, 301–827–0021.

SUPPLEMENTARY INFORMATION:

I. Background

Section 204 of the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Public Law 105–115) amended section 514 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360d). Amended section 514 allows FDA to recognize consensus standards developed by international and national organizations for use in satisfying portions of device premarket review submissions or other requirements.

In a notice published in the **Federal Register** of February 25, 1998 (63 FR 9561), FDA announced the availability of a guidance entitled "Recognition and Use of Consensus Standards." The notice described how FDA would implement its standard recognition program and provided the initial list of recognized standards.

In **Federal Register** notices published on October 16, 1998 (63 FR 55617), July 12, 1999 (64 FR 37546), November 15, 2000 (65 FR 69022), May 7, 2001 (66 FR 23032), January 14, 2002 (67 FR 1774), October 2, 2002 (67 FR 61893), April 28, 2003 (68 FR 22391), March 8, 2004 (69 FR 10712), June 18, 2004 (69 FR 34176), October 4, 2004 (69 FR 59240), May 27, 2005 (70 FR 30756), November 8, 2005 (70 FR 67713), and March 31, 2006 (71 FR 16313), FDA modified its initial list of FDA recognized consensus standards.

These notices describe the addition, withdrawal, and revision of certain standards recognized by FDA. The agency maintains "hypertext markup language (HTML)" and "portable document format (PDF)" versions of the list of "FDA Recognized Consensus Standards." Both versions are publicly accessible at the agency's Internet site. See section VI of this document for electronic access information. Interested persons should review the supplementary information sheet for the standard to understand fully the extent to which FDA recognizes the standard.

II. Modifications to the List of Recognized Standards, Recognition List Number: 015

FDA is announcing the addition, withdrawal, correction, and revision of certain consensus standards the agency will recognize for use in satisfying premarket reviews and other requirements for devices. FDA will incorporate these modifications in the list of FDA Recognized Consensus Standards in the agency's searchable database. FDA will use the term "Recognition List Number: 015" to identify these current modifications.

In table 1 of this document, FDA describes the following modifications: (1) The withdrawal of standards and their replacement by others, (2) the correction of errors made by FDA in listing previously recognized standards, and (3) the changes to the supplementary information sheets of recognized standards that describe revisions to the applicability of the standards.

In section III of this document, FDA lists modifications the agency is making that involve the initial addition of standards not previously recognized by FDA.

TABLE 1.

Old Item No.	Standard	Change	Replacement Item No.
A. Biocompatibility			
21	AAMI/ANSI/ISO10993–11:1993, Biological Evaluation of Medical Devices—Part 11: Tests for Systemic Toxicity	Extent of recognition	
66	ASTM F2148–01, Standard Practice for Evaluation of Delayed Contact Hypersensitivity Using the Murine Local Lymph Node Assay	Contact person, processes affected, and extent of recognition	
67	ASTM F756–00, Standard Practice for Assessment of Hemolytic Properties of Materials	Contact person, processes affected, and extent of recognition	
73	ASTM F2065–00e1, Standard Practice for Testing for Alternative Pathway Complement Activation in Serum by Solid Materials	Contact person, processes affected, and extent of recognition	
82	ASTM F2147–01, Standard Practice for Guinea Pigs: Split Adjuvant and Closed Patch Testing for Contact Allergens	Contact person, and processes affected	
101	USP 29–NF21Biological Tests <87>, Biological Reactivity Test, In Vitro—Direct Contact Test	Withdrawn and replaced with newer version	109
102	USP 29–NF21Biological Tests <87>, Biological Reactivity Test, In Vitro—Elution Test	Withdrawn and replaced with newer version	110
103	USP 29–NF21Biological Tests <88>, Biological Reactivity Test, In Vivo Procedure—Preparation of Sample	Withdrawn and replaced with newer version	111
104	USP 29–NF21Biological Tests <88>, Biological Reactivity Test, In Vitro, Classification of Plastics—Intracutaneous Test	Withdrawn and replaced with newer version	112

TABLE 1.—Continued

Old Item No.	Standard	Change	Replacement Item No.
105	USP 29–NF21 Biological Tests <88>, Biological Reactivity Test, In Vitro, Classification of Plastics—Systemic Injection Test	Withdrawn and replaced with newer version	113
B. Dental/Ear, Nose, and Throat			
83	ISO 11498 Dental Handpieces: Dental Low Voltage Electrical Motors	Contact person, and processes affected	
127	ANSI/ADA Specification No. 58:2004, Root Canal Files, Type H (Hedstrom)	Contact person	
C. General Hospital/General Plastic Surgery			
133	USP 29: 2006 Nonabsorbable Surgical Suture	Withdrawn and replaced with newer version	151
134	USP 29<11>: 2006 Sterile Sodium Chloride for Irrigation	Withdrawn and replaced with newer version	152
135	USP 29: 2006 Absorbable Surgical Suture	Withdrawn and replaced with newer version	153
136	USP 29<881>: 2006 Tensile Strength	Withdrawn and replaced with newer version	154
137	USP 29<861>: 2006 Sutures—Diameter	Withdrawn and replaced with newer version	155
138	USP 29<871>: 2006 Sutures Needle Attachment	Withdrawn and replaced with newer version	156
139	USP 29<11>: 2006 Sterile Water for Irrigation	Withdrawn and replaced with newer version	157
140	USP 29<11>: 2006 Heparin Lock Flush Solution	Withdrawn and replaced with newer version	158
141	USP 29<11>: 2006 Sodium Chloride Injection	Withdrawn and replaced with newer version	159
D. Sterility			
52	ANSI/AAMI ST59:1999, Sterilization of Health Care Products—Biological Indicators Part 1: General	Contact person and relevant guidance	
70	AAMI/ANSI/ISO 14161:2000, Sterilization of Health Care Products—Biological Indicators—Guidance for the Selection, Use and Interpretation of Results, 2 ed.	Contact person	
72	ANSI/AAMI ST33:1996, Guidelines for the Selection and Use of Reusable Rigid Sterilization Container Systems for Ethylene Oxide Sterilization in Health Care Facilities	Contact person and processes affected	
94	AOAC 6.2.01:2005, Official Method 955.14, Testing Disinfectants Against Salmonella Choleraesuis, Use-Dilution Method	Withdrawn and replaced with newer version	172
95	AOAC 6.2.02:2005, Official Method 991.47, Testing Disinfectants Against Salmonella Choleraesuis, Hard Surface Carrier Test Method	Withdrawn and replaced with newer version	173
96	AOAC 6.2.03:2005, Official Method 991.48, Testing Disinfectants Against Staphylococcus Aureus, Hard Surface Carrier Test Method	Withdrawn and replaced with newer version	174
97	AOAC 6.2.04:2005, Official Method 955.15, Testing Disinfectants Against Staphylococcus Aureus, Use-Dilution Method	Withdrawn and replaced with newer version	175

TABLE 1.—Continued

Old Item No.	Standard	Change	Replacement Item No.
98	AOAC 6.2.05:2005, Official Method 991.49, Testing Disinfectants Against Pseudomonas Aeruginosa, Hard Surface Carrier Test Method	Withdrawn and replaced with newer version	176
99	AOAC 6.2.06:2005, Official Method 964.02, Testing Disinfectants Against Pseudomonas Aeruginosa, Use-Dilution Method	Withdrawn and replaced with newer version	177
100	AOAC 6.3.02:2005, Official Method 955.17, Fungicidal Activity of Disinfectants Using Trichophyton Mentagrophytes	Withdrawn and replaced with newer version	178
101	AOAC 6.3.05:2005, Official Method 966.04, Sporicidal Activity of Disinfectants	Withdrawn and replaced with newer version	179
102	AOAC 6.3.06:2005, Official Method 965.12, Tuberculocidal Activity of Disinfectants	Withdrawn and replaced with newer version	180
104	AAMI/ANSI ST58:2005, Safe Use and Handling of Glutaraldehyde-Based Products in Health Care Facilities	Withdrawn and replaced with newer version	181
116	ANSI/AAMI ST72:2002, Bacterial Endotoxins—Test Methodologies, Routine Monitoring, and Alternatives to Batch Testing	Relevant guidance	
117	ANSI/AAMI ST35:2003, Safe Handling and Biological Decontamination of Medical Devices in Health Care Facilities and in Nonclinical Settings	Relevant guidance	
153	USP 29:2006, Biological Indicator for Dry Heat Sterilization, Paper Carrier	Withdrawn and replaced with newer version	182
154	USP 29:2006, Biological Indicator for Ethylene Oxide Sterilization, Paper Carrier	Withdrawn and replaced with newer version	183
155	USP 29:2006, Biological Indicator for Steam Sterilization, Paper Carrier	Withdrawn and replaced with newer version	184
156	USP29:2006, <61> Microbial Limits Test	Withdrawn and replaced with newer version	185
157	USP 29:2006, <71>, Microbiological Tests, Sterility Tests	Withdrawn and replaced with newer version	186
158	USP29:2006, <85>, Biological Tests and Assays, Bacterial Endotoxin Test (LAL)	Withdrawn and replaced with newer version	187
159	USP29:2006 <151>, Pyrogen Test (USP Rabbit Test)	Withdrawn and replaced with newer version	188
160	USP29:2006 <1211>, Sterilization and Sterility Assurance of Compendial Articles	Withdrawn	
161	USP29:2006 <161>, Transfusion and Infusion Assemblies and Similar Medical Devices	Withdrawn and replaced with newer version	189
162	USP 29:2006, Biological Indicator for Steam Sterilization—Self-Contained	Withdrawn and replaced with newer version	190
164	ANSI/AAMI ST81:2004, Sterilization of Medical Devices—Information to be Provided by the Manufacturer for the Processing of Resterilizable Devices	Relevant guidance	

III. Listing of New Entries

The listing of new entries and consensus standards added as modifications to the list of recognized standards under Recognition List Number: 015, follows:

TABLE 2.

Item No.	Title of Standard	Reference No. and Date
A. Sterility		
191	Aseptic Processing of Health Care Products—Part 4: Clean-in-Place Technologies	ISO 13408–4:2005

IV. List of Recognized Standards

FDA maintains the agency's current list of FDA recognized consensus standards in a searchable database that may be accessed directly at FDA's Internet site at *http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfStandards/search.cfm*. FDA will incorporate the modifications and minor revisions described in this notice into the database and, upon publication in the **Federal Register**, this recognition of consensus standards will be effective. FDA will announce additional modifications and minor revisions to the list of recognized consensus standards, as needed, in the **Federal Register** once a year, or more often, if necessary.

V. Recommendation of Standards for Recognition by FDA

Any person may recommend consensus standards as candidates for recognition under section 514 of the act by submitting such recommendations, with reasons for the recommendation, to the contact person (see **FOR FURTHER INFORMATION CONTACT**). To be properly considered such recommendations should contain, at a minimum, the following information: (1) Title of the standard, (2) any reference number and date, (3) name and address of the national or international standards development organization, (4) a proposed list of devices for which a declaration of conformity to this standard should routinely apply, and (5) a brief identification of the testing or performance or other characteristics of the device(s) that would be addressed by a declaration of conformity.

VI. Electronic Access

You may obtain a copy of "Guidance on the Recognition and Use of Consensus Standards" by using the Internet. CDRH maintains a site on the Internet for easy access to information including text, graphics, and files that you may download to a personal computer with access to the Internet. Updated on a regular basis, the CDRH home page includes the guidance as well as the current list of recognized standards and other standards related documents. After publication in the **Federal Register**, this notice announcing "Modifications to the List of Recognized Standards, Recognition List Number: 015" will be available on the CDRH home page. You may access the CDRH home page at *http://www.fda.gov/cdrh*.

You may access "Guidance on the Recognition and Use of Consensus Standards," and the searchable database for "FDA Recognized Consensus Standards" through the hyperlink at *http://www.fda.gov/cdrh/stdsprog.html*.

This **Federal Register** document on modifications in FDA's recognition of consensus standards is available at *http://www.fda.gov/cdrh/fedregin.html*.

VII. Submission of Comments and Effective Date

Interested persons may submit to the contact person (see **FOR FURTHER INFORMATION CONTACT**) 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. FDA will consider any comments received in determining whether to amend the current listing of modifications to the list of recognized standards, Recognition List Number: 015. These modifications to the list of recognized standards are effective upon publication of this notice in the **Federal Register**.

Dated: June 13, 2006.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. E6–9959 Filed 6–22–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

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

Proposed Project: Regulations To Implement SAMHSA's Charitable Choice Statutory Provisions—42 CFR Parts 54 and 54a (OMB No. 0930–0242)—Extension

Section 1955 of the Public Health Service Act (42 U.S.C. 300x–65), as amended by the Children's Health Act of 2000 (Pub. L..106–310) and sections 581–584 of the Public Health Service Act (42 U.S.C. 290kk et seq., as added by the Consolidated Appropriations Act (Pub. L. 106–554)), set forth various provisions which aim to ensure that religious organizations are able to compete on an equal footing for Federal funds to provide substance abuse services. These provisions allow religious organizations to offer substance abuse services to individuals without impairing the religious character of the organizations or the religious freedom of the individuals who receive the services. The provisions apply to the Substance Abuse Prevention and Treatment Block Grant (SAPT BG), to the Projects for Assistance in Transition from Homelessness (PATH) formula grant program, and to certain Substance

Abuse and Mental Health Services Administration (SAMHSA) discretionary grant programs (programs that pay for substance abuse treatment and prevention services, not for certain infrastructure and technical assistance activities). Every effort has been made to assure that the reporting, recordkeeping and disclosure requirements of the proposed regulations allow maximum flexibility in implementation and impose minimum burden.

No changes are being made to the regulations. This extension is for approval of the annual checklists to be completed by discretionary and PATH grantees to provide the information required to be reported by 42 CFR part 54a.8(d) and 54.8(e), respectively, and to ascertain how they are implementing the disclosure requirements of 54a.8(b) and 54.8(b), respectively.,

Information on how States comply with the requirements of 42 CFR part 54a was approved by the Office of Management and Budget (OMB) as part of the Substance Abuse Prevention and Treatment Block Grant FY 2005–2007 annual application and reporting requirements approved under OMB control number 0930–0080.

42 CFR citation and purpose	Number of respondents	Responses per respondent	Hours per response	Total hours
Part 54—States Receiving SAPT Block Grants and/or Projects for Assistance in Transition From Homelessness				
Reporting:				
54.8(c)(4) Program participant notification to responsible unit of government regarding referrals to alternative service providers	40	4	.33	53
54.8(e) Annual report by PATH grantees on activities undertaken to comply with 42 CFR Part 54	56	1	2.00	112
Disclosure:				
54.8(b) Program participant notice to program beneficiaries of rights to referral to an alternative service provider:				
SAPT BG	1,000	275	.05	13,750
PATH	100	170	.05	850
Recordkeeping:				
54.6(b) Documentation must be maintained to demonstrate significant burden for program participants under 42 U.S.C. 300x–57 or 42 U.S.C. 290cc–33(a)(2)	50	1	1.00	50
Part 54—Subtotal	1,156			14,815
Part 54a—States, local governments and religious organizations receiving funding under Title V of the PHS Act for substance abuse prevention and treatment services				
Reporting:				
54a.8(c)(1)(iv) Program participant notification to State or local government of a referral to an alternative provider	25	4	.083	8
54a(8)(d) Program participant notification to SAMHSA of referrals	20	2	.25	10
Disclosure:				
54a.8(b) Program participant notice to program beneficiaries of rights to referral to an alternative service provider	100	275	.05	1,375
Part 54a—Subtotal	100			1,393
Total	1,256			16,208

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 7–1044, One Choke Cherry Road, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: June 17, 2006.

Anna Marsh,

Director, Office of Program Services.

[FR Doc. E6–9916 Filed 6–22–06; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2006–25106]

Agency Contact Phone Numbers for Coast Guard Regulatory Projects and Federal Advisory Committees

AGENCY: Coast Guard, DHS.

ACTION: Notice.

SUMMARY: The Coast Guard announces that the majority of the agency contact phone numbers for its regulatory projects and Federal advisory committees have changed. This notice provides the current agency contact phone numbers for our on-going regulatory projects listed in the spring 2006 Unified Agenda and for our advisory committees.

DATES: Comments in response to this notice should reach the Docket Management Facility on or before September 21, 2006.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2006–25106 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Web Site: http://dms.dot.gov.*

(2) *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

(3) *Fax:* 202–493–2251.

(4) *Delivery:* Room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC,

between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call James McLeod, Office of Regulations and Administrative Law, Coast Guard, telephone 202–372–3864 or 202–372–3868. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–493–0402.

SUPPLEMENTARY INFORMATION:

Background and Purpose

When we publish information about our regulatory projects or notices about our Federal advisory committees, we include the name of a Coast Guard employee who you may contact to ask questions about the project or committee. We refer to this person as the agency contact.

Because new telephone and fax numbers have been assigned to the majority of agency contacts for Coast Guard regulatory projects and its Federal advisory committees, we are publishing this notice to provide these new numbers to you.

To increase the utility of this notice, we have included all the current phone numbers for our on-going regulatory projects listed in the spring 2006 Unified Agenda (71 FR 22672–688, April 24, 2006) and for our advisory committees. Most of the new phone numbers are for agency contacts based in Coast Guard Headquarters in Washington, DC, and begin with "202–372–".

The following list contains the current agency contact phone numbers for ongoing rulemaking projects listed in the spring 2006 Unified Agenda:

- *Administrative Changes to Numbering of Vessels and Reporting of Casualties* (USCG–2003–14963; RIN 1625–AA70): Jeanne Timmons, Project Manager, Office of Boating Safety, Program Management Division, G–PCB–1, 202–267–1077.
- *Alternate Compliance Program:Vessel Inspection Alternatives* (RIN 1625–AA92): Lieutenant William Nabach, Project Manager, Office of Design and Engineering Standards, Naval Architecture Division, G–PSE–2, 202–372–1367.
- *Cargo Securing on Vessels Operating in U.S. Waters* (USCG–2000–7080; RIN 1625–AA25): David H. Dolloff, Project Manager, Office of Operating and Environmental Standards, Vessel and Facility Operating Standards Division, G–PSO–2, 202–372–1415.
- *Claims Procedures Under the Oil Pollution Act of 1990* (USCG–2004–17697; RIN 1625–AA03): Benjamin White, Project Manager, National Pollution Funds Center, 202–493–6863.
- *Commercial Diving Operations* (USCG–1998–3786; RIN 1625–AA21): David Dolloff, Project Manager, Office of Operating and Environmental Standards, Vessel and Facility Operating Standards Division, G–PSO–2, 202–372–1415.
- *Commercial Fishing Industry Vessels* (USCG–2003–16158; RIN 1625–AA77): Mr. Mike Rosecrans, Project Manager, Office of Vessel Activities, Fishing Vessel Safety Division, G–PCV–3, 202–372–1245.
- *Deepwater Ports* (USCG–1998–3884; RIN 1625–AA20): Kevin Tone, Project Manager, Office of Operating and Environmental Standards, Deepwater Ports Standards Division, G–PSO–5, 202–372–1441.
- *Discharge-Removal Equipment for Vessels Carrying Oil* (CGD 90–068; RIN 1625–AA02): David A. DuPont, Project Manager, Office of Standards Evaluation and Development, Budget and Resources Division, G–PSR–2, 202–372–1497.
- *Drawbridge Operations Regulations; Revisions* (USCG–2001–10881; RIN 1625–AA36): J. Christopher Jaufmann, Project Manager, Office of Bridge Administration, Alterations Division, G–PWB–1, 202–267–0377.
- *Drawbridge Regulations* (RIN 1625–AA09): Alesia Steinberger, Project Manager, Office of Bridge Administration, Alterations Division, G–PWB–1, 202–267–6215.
- *Dry Cargo Residue Discharges in the Great Lakes* (USCG–2004–19621; RIN 1625–AA89): Lieutenant Commander Mary Sohlberg, Project Manager, Office of Operating and Environmental Standards, Environmental Standards Division, G–PSO–4, 202–372–1429.
- *Escort Vessels in Certain U.S. Waters* (CGD 91–202a; RIN 1625–AA10): Lieutenant Vivianne Louie, Project Manager, Office of Design and Engineering Standards, Human Element and Ship Design Division, G–PSE–1, 202–372–1358.
- *Federal Requirements for Propeller Injury Avoidance Measures* (USCG 2001–10163; RIN 1625–AA31): Dan McCormick, Project Manager, Office of Boating Safety, Recreational Boating Division, G–PCB–3, 202–267–1077.
- *Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification, and Watchkeeping (STCW) for Seafarers, 1978* (CGD 95–062; RIN 1625–AA16): Mark Gould, Project Manager, Office of Operating and Environmental Standards, Maritime Personnel Qualifications Division, G–PSO–1, 202–372–1409.
- *Improvements to Maritime Safety in Puget Sound-Area Waters* (USCG–1998–4501; RIN 1625–AA22): Lieutenant Vivianne Louie, Project Manager, Office of Design and Engineering Standards, Human Element and Ship Design Division, G–PSE–1, 202–372–1358.
- *Limited Service Domestic Voyage Load Lines for River Barges on Lake Michigan* (USCG–1998–4623; RIN 1625–AA17): Thomas Jordan, Project Manager, Office of Design and Engineering Standards, Naval Architecture Division, G–PSE–2, 202–372–1370.
- *Long Range Identification and Tracking of Vessels* (RIN 1625–AB00): William Cairns, Office of Navigation Systems, G–PWN, 202–372–1557.
- *Marine Transportation-Related Facility Response Plans for Hazardous Substances* (USCG–1999–5705; RIN 1625–AA12): Lieutenant Commander Robert Smith, Project Manager, Office of Vessel Activities, G–PCV, 202–267–2616.
- *Navigation Equipment; SOLAS Chapter V Amendments* (USCG–2004–19588; RIN 1625–AA91): Lieutenant Commander James Rocco, Project Manager, Office of Navigation Systems, Navigation Standards Division, G–PWN–4, 202–372–1565; Dolores Mercier, Project Manager, Office of Design and Engineering Standards, Systems Engineering Division, G–PSE–3, 202–372–1381.
- *Notification of Arrival in U.S. Ports; Certain Dangerous Cargoes; Electronic Submission* (USCG–2004–19963; RIN 1625–AA93): Lieutenant Junior Grade Julie Miller, Project Manager, Office of Vessel Activities, Foreign and Offshore Vessel Activities Division, G–PCV–2, 202–372–1244.
- *Numbering of Undocumented Barges* (USCG–1998–3798; RIN 1625–AA14): Patricia Williams, Project Manager, National Vessel Documentation Center, 304–271–2506.
- *Oil Spill Liability Trust Fund Consumer Price Index (CPI) Adjustment of Vessel Limits of Liability* (RIN 1625–AA98): Benjamin White, Project Manager, National Pollution Funds Center, 202–493–6863.
- *Outer Continental Shelf Activities* (USCG–1998–3868; RIN 1625–AA18): James Magill, Project Manager, Office of Operating and Environmental Standards, Vessel and Facility Operating Standards, G–PSO–2, 202–372–1414.
- *Pollution Prevention Equipment* (USCG–2004–18939; RIN 1625–AA90):

Lieutenant William Nabach, Project Manager, Office of Design and Engineering Standards, Systems Engineering Division, G–PSE–3, 202–372–1367.

• *Protection for Whistle Blowers in the Coast Guard* (USCG–2002–13016; RIN 1625–AA50): Lieutenant Patrick Grace, Project Manager, Office of the Judge Advocate General, Office of General Law, G–LGL, 202–372–3757.

• *Rates for Pilotage on the Great Lakes* (USCG–2002–11288; RIN 1625–AA38): Paul Wasserman, Project Manager, Office of Maritime Transportation Systems, Great Lakes Pilotage Division, G–PWM–2, 202–372–1535.

• *Regatta and Marine Parade Regulations* (RIN 1625–AA08): Jeff Ludwig, Project Manager, Office of Boating Safety, Program Management Division, G–PCB–1, 202–267–1077.

• *Regulated Navigation Areas* (RIN 1625–AA11): Ed LaRue, Project Manager, Office of Navigation Systems, G–PWN, 202–372–1564.

• *Review and Update of Standards for Marine Equipment* (USCG–2003–16630; RIN 1625–AA83): Commander Anthony Wiest, Project Manager, Office of Design and Engineering Standards, G–PSE, 202–372–1375.

• *Rules of Practice, Procedure, and Evidence for Administrative Proceedings of the Coast Guard* (USCG 1998–3472; RIN 1625–AA59): George Jordan, Project Manager, Chief Administrative Law Judge, G–CJ, 202–267–2940.

• *Safety Zone Regulations* (RIN 1625–AA00): George Detweiler, Project Manager, Office of Navigation Systems, G–PWN, 202–372–1566.

• *Salvage and Marine Firefighting Requirements; Vessel Response Plans for Oil* (USCG–1998–3417; RIN 1625–AA19): Lieutenant Commander Reed Kohberger, Project Manager, Office of Vessel Activities, G–PCV, 202–372–1471.

• *Security Zone Regulations* (RIN 1625–AA87): Commander Tina Burke, Project Manager, Office of Port and Facility Activities, Domestic Ports Division, G–PCP–1, 202–267–4143.

• *Special Anchorage Areas/ Anchorage Grounds Regulations* (RIN 1625–AA01): Ed LaRue, Project Manager, Office of Navigation Systems, G–PWN, 202–372–1564.

• *Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters* (USCG–2001–10486; RIN 1625–AA32): Bivan Patnaik, Project Manager, Office of Operating and Environmental Standards, Environmental Standards Division, G–PSO–4, 202–372–1435.

• *State Access to the Oil Spill Liability Trust Fund* (USCG–2004–19123; RIN 1625–AA06): Benjamin White, Project Manager, National Pollution Funds Center, 202–493–6863.

• *Tank Vessel Response Plans for Hazardous Substances* (USCG–1998–4354; RIN 1625–AA13): Lieutenant Commander Rob Smith, Project Manager, Office of Vessel Activities, G–PCV, 202–267–2616.

• *Traffic Separation Schemes: In the Strait of Juan De Fuca and Its Approaches; In Puget Sound and Its Approaches; In Haro Strait, Boundary Pass, and in the Strait of Georgia* (USCG–2002–12702; RIN 1625–AA48): George Detweiler, Project Manager, Office of Navigation Systems, G–PWN, 202–372–1566.

• *Validation of Merchant Mariners' Vital Information and Issuance of Coast Guard Merchant Mariner's Documents* (MMDs) (USCG–2003–14500; RIN 1625–AA81): Gerald P. Miante, Project Manager, Office of Operating and Environmental Standards, Maritime Personnel Qualifications Division, G–PSO–1, 202–372–1401.

• *Validation of Merchant Mariners' Vital Information and Issuance of Coast Guard Merchant Mariner's Licenses and Certificates of Registry* (USCG–2004–17455; RIN 1625–AA85): Gerald P. Miante, Project Manager, Office of Operating and Environmental Standards, Maritime Personnel Qualifications Division, G–PSO–1, 202–372–1401.

• *Vapor Control Systems* (RIN 1625–AB01): Sara Ju, Project Manager, Office of Operating and Environmental Standards, Hazard Materials Standards Division, G–PSO–3, 202–372–1425.

• *Vessel and Facility Response Plans for Oil: 2003 Removal Equipment Requirements and Alternative Technology Revisions* (USCG–2001–8661; RIN 1625–AA26): Lieutenant Commander Robert Smith, Project Manager, Office of Vessel Activities, G–PCV, 202–267–2616.

• *Vessel Documentation: Lease Financing for Vessels Engaged in the Coastwise Trade* (RIN 1625–AA95): Thomas Willis, Project Manager, National Vessel Documentation Center, 304–271–2506.

• *Vessel Requirements for Notices of Arrival and Departure, and Automatic Identification System* (USCG–2005–21869; RIN 1625–AA99): Lieutenant Junior Grade Julie Miller, Project Manager, Office of Vessel Activities, Foreign and Offshore Vessel Activities Division, G–PCV–2, 202–372–1244; Jorge Arroyo, Project Manager, Office of Navigation Systems, G–PWN, 202–372–1563.

• *Vessel Traffic Service Lower Mississippi River* (USCG–1998–4399; RIN 1625–AA58): Jorge Arroyo, Project Manager, Office of Navigation Systems, G–PWN, 202–372–1563.

• *Waiver for Marking Sunken Vessels with Light at Night* (USCG–2005–20488; RIN 1625–AA97): Lieutenant Christian Munoz, Project Manager, Office of Navigation Systems, Visual Navigation Division, G–PWN–1, 202–267–1386.

• *Wearing of Personal Flotation Devices by Persons Operating or Riding on Personal Watercraft, Water Skiing, or Engaging in Other Forms of Towing Persons Behind Recreational Vessels* (USCG–2002–11421; RIN 1625–AA40): Jeanne Timmons, Project Manager, Office of Boating Safety, Program Management Division, G–PCB–1, 202–267–1077.

The following list contains the current agency contact phone numbers for our 11 Federal advisory committees:

• *Chemical Transportation Advisory Committee:* Commander Robert J. Hennessy, Executive Director, or Ms. Sara Ju, Assistant to the Executive Director, telephone 202–372–1425, fax 202–372–1926.

• *Commercial Fishing Industry Vessel Safety Advisory Committee:* Captain Michael B. Karr, Executive Director, or Mr. Mike Rosecrans, Assistant to the Executive Director, telephone at 202–372–1251, fax 202–372–1917.

• *Great Lakes Pilotage Advisory Committee:* Mr. John Bobb; Executive Secretary, telephone 202–372–1532, fax 202–372–1929.

• *Houston-Galveston Navigation Safety Advisory Committee:* Commander Jerry Torok, Executive Secretary, telephone 713–671–5164.

• *Lower Mississippi River Waterway Safety Advisory Committee:* Assistant Committee Administrators Ensign Ashana Hopson, 504–219–2780, or Lieutenant Junior Grade Thao Nguyen, 504–219–2782.

• *Merchant Marine Personnel Advisory Committee:* Mr. Mark Gould, Assistant to the Executive Director, telephone 202–372–1409, fax 202–372–1926.

• *National Boating Safety Advisory Council:* Ms. Jeanne Timmons, Executive Director, or Jeff Ludwig, Executive Secretary, telephone 202–267–1077, fax 202–267–4285.

• *National Maritime Security Advisory Committee:* Mr. John Bastek, Executive Secretary, telephone 202–267–2722, fax 202–267–4130.

• *National Offshore Safety Advisory Committee:* Commander J.M. Cushing, Executive Director, telephone 202–372–1410 or Mr. Jim Magill, Assistant to the

Executive Director, telephone 202–372–1414, fax 202–372–1926.

• *Navigation Safety Advisory Council:* Mr. John Bobb, Executive Secretary, telephone 202–372–1532, fax 202–372–1929.

• *Towing Safety Advisory Committee:* Mr. Gerald Miante, Assistant Executive Director, telephone 202–372–1401, fax 202–372–1926.

Comments

We encourage you to submit comments on this notice. All comments received will be posted, without change, to *http://dms.dot.gov* and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's "Privacy Act" paragraph below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number for this notice (USCG–2006–25106) and give the reason for each comment. You may submit your comments by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments received during the comment period.

Viewing comments and documents: To view comments, go to *http://dms.dot.gov* at any time, click on "Simple Search," enter the last five digits of the docket number for this notice, and click on "Search." You may also visit the Docket Management Facility in room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

Dated: June 20, 2006.

Stefan G. Venckus,

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

[FR Doc. E6–9968 Filed 6–22–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Extension of a Currently Approved Information Collection; Comment Request

ACTION: 30-day notice of information collection under review: Notice of Immigration Pilot Program, OMB Control No. 1615–0061.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on April 13, 2006 at 71 FR 19199. The notice allowed for a 60-day public comment period. No comments were received on this information collection. The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 24, 2006. This process is conducted in accordance with 5 CFR 1320.10.

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 Department of Homeland Security (DHS), USCIS, Director, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, 3rd floor, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov*. When submitting comments by e-mail please make sure to add OMB Control Number 1615–0061 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

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

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

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

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of currently approved collection.

(2) *Title of the Form/Collection:* Immigration Pilot Program.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* No Form. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. The information collected will be used by USCIS to determine which regional centers should participate in the immigration pilot program.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 50 responses at 40 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 2,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please visit the USCIS Web site at: *http://uscis.gov/graphics/formsfee/forms/pra/index.htm.*

If additional information is required contact: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, 3rd Floor, Washington, DC 20529 (202) 272–8377.

Dated: June 19, 2006.

Stephen R. Tarragon,

Deputy Director, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E6–9909 Filed 6–22–06; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5045–N–25]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, room 7266, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for "off-site use only" recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to John Hicks, Division of Property Management, Program Support Center, HHS, room 5B–17, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: AGRICULTURE: Ms. Marsha Pruitt, Realty Officer, Department of Agriculture, Reporters Building, 300 7th St., SW., Rm 310B, Washington, DC 20250; (202) 720–4335; ENERGY: Mr. John Watson, Department of Energy, Office of Engineering & Construction Management, ME–90, 1000 Independence Ave, SW., Washington, DC 20585; (202) 586–0072; GSA: Mr. John Kelly, Acting Deputy Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th & F Streets, NW., Washington, DC 20405; (202) 501–0084; INTERIOR: Ms. Linda Tribby, Acquisition & Property Management, Department of the Interior, 1849 C Street, NW., MS5512, Washington, DC 20240; (202) 513–0747; NAVY: Mr. Warren Meekins, Department of the Navy, Real Estate Services, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington, DC 20374–5065; (202) 685–9305. (These are not toll-free numbers.)

Dated: June 15, 2006.

Mark R. Johnston,

Acting Deputy Assistant Secretary for Special Needs.

Title V, Federal Surplus Property Program Federal Register Report for 6/23/06

Suitable/Available Properties

Buildings (by State)

Montana

Bldg. 2002
200 Ranger Station Rd.
Bigfork Co: Flathead MT 59911–
Landholding Agency: Agriculture
Property Number: 15200620001
Status: Excess
Comment: 1503 sq. ft., needs rehab, most recent use—office, presence of asbestos/lead paint, off-site use only

Border Patrol Station
906 Oilfield Avenue
Shelby Co: Toole MT 59474–
Landholding Agency: GSA
Property Number: 54200620010
Status: Excess
Comment: Bldg/1944 sq. ft.; garage/650 sq. ft.; shed/175 sq. ft.; potential asbestos/lead paint/radon
GSA Number : 7–Z–MT–0617

Land (by State)

Hawaii

Direction Finder Site
Kaluakoi Co: Maui HI 96770–
Landholding Agency: GSA
Property Number: 54200620019
Status: Excess
Comment: 0.331 acre, easement restrictions/other restrictions, covered with vegetation
GSA Number: 00000

Utah

0.21 acres
Circle View Plat B
Highland Co: UT 84003–
Landholding Agency: Interior
Property Number: 61200620005
Status: Excess
Comment: Permanent easement, contains two large buried high pressure water pipelines

Unsuitable Properties

Buildings (by State)

Hawaii

Bldg. 40
Naval Magazine
Ewa Beach Co: Honolulu HI 96706–
Landholding Agency: Navy
Property Number: 77200620024
Status: Excess
Reason: Extensive deterioration

Bldgs. 5380, 5381
Naval Magazine
Ewa Beach Co: Honolulu HI 96706–
Landholding Agency: Navy
Property Number: 77200620025
Status: Excess
Reason: Extensive deterioration

Bldgs. 487, 488
Naval Station
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77200620026
Status: Excess
Reason: Extensive deterioration

Pennsylvania

Bldg. A15
Naval Air Station
Warminster Co: PA 18954–
Landholding Agency: Navy
Property Number: 77200620031
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. 117
Naval Air Station
Warminster Co: PA 18954–
Landholding Agency: Navy
Property Number: 77200620032
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. 139
Naval Air Station
Warminster Co: PA 18954–
Landholding Agency: Navy
Property Number: 77200620033
Status: Excess
Reason: Secured Area

Rhode Island

Bldg. 42
Naval Station
Middletown Co: Newport RI 02841–
Landholding Agency: Navy
Property Number: 77200620027
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 77
Naval Station
Middletown Co: Newport RI 02841–
Landholding Agency: Navy
Property Number: 77200620028
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 86
Naval Station
Middletown Co: Newport RI 02841–
Landholding Agency: Navy
Property Number: 77200620029
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

South Carolina

Bldg. 714–000A
Savannah River Site
Aiken Co: SC
Landholding Agency: Energy
Property Number: 41200620014
Status: Underutilized
Reason: Secured Area

Bldgs. 711–000P, 711–001P
Savannah River Site
Aiken Co: SC 29802
Landholding Agency: Energy
Property Number: 41200620015
Status: Excess
Reason: Secured Area

Bldg. 777–018A
Savannah River Site
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200620022
Status: Excess
Reason: Secured Area

21 Bldgs.
Naval Weapons Station
Goose Creek Co: Berkely SC 29445–
Location: 4, 167C, 174, 180, 350, 383, 400, 410, 769, 790, 823, 824, 904, 930, 930A, 953, 953A, 971, 975, 2305, 3526
Landholding Agency: Navy
Property Number: 77200620034
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Tennessee

Bldgs. 9102–1, 9102–2
Y–12 Natl Nuclear Security Complex
Oak Ridge Co: TN 37831–
Landholding Agency: Energy
Property Number: 41200620016
Status: Unutilized
Reason: Secured Area

Bldg. 9704–1
Y–12 Natl Nuclear Security Complex
Oak Ridge Co: TN 37831–
Landholding Agency: Energy
Property Number: 41200620017
Status: Unutilized
Reason: Secured Area

Bldgs. 9711–1, 9712
Y–12 Natl Nuclear Security Complex
Oak Ridge Co: TN 37831–
Landholding Agency: Energy
Property Number: 41200620018
Status: Unutilized
Reason: Secured Area

Bldgs. 9720–4, 9738
Y–12 Natl Nuclear Security Complex
Oak Ridge Co: TN 37831–
Landholding Agency: Energy
Property Number: 41200620019
Status: Unutilized
Reason: Secured Area

Bldg. 9771
Y–12 Natl Nuclear Security Complex
Oak Ridge Co: TN 37831–
Landholding Agency: Energy
Property Number: 41200620020
Status: Unutilized
Reason: Secured Area

Bldgs. 9983, 9985
Y–12 Natl Nuclear Security Complex
Oak Ridge Co: TN 37831–
Landholding Agency: Energy
Property Number: 41200620021
Status: Unutilized
Reason: Secured Area

Virginia

Bldgs. C–5, U–115, X–360
Naval Station
Norfolk Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200620030
Status: Excess
Reason: Secured Area

[FR Doc. E6–9682 Filed 6–22–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Renewal To Be Sent to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act; OMB Control Number 1018–0067; Approval Procedures for Nontoxic Shot and Shot Coatings (50 CFR 20.134)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (Fish and Wildlife Service) will ask OMB to renew approval for our information collection associated with applications for designation of shot material as nontoxic for hunting waterfowl and coots. The current OMB control number for this information collection is 1018–0067, which expires on December 31, 2006. We will request that OMB renew approval of this information collection for a 3-year term. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this information collection.

DATES: You must submit comments on or before August 22, 2006.

ADDRESSES: Send your comments on the information collection to Hope Grey, Information Collection Clearance Officer, Fish and Wildlife Service, MS 222–ARLSQ, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); *hope_grey@fws.gov* (e-mail); or (703) 358–2269 (fax).

FOR FURTHER INFORMATION CONTACT: To request additional information about this information collection request, contact Hope Grey at one of the addresses above or by telephone at (703) 358–2482.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). Federal agencies 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.

This information collection is associated with regulations implementing the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703 et seq.). The MBTA prohibits the unauthorized take of migratory birds and authorizes the Secretary of the Interior to regulate take of migratory birds in the United States. Under this authority, we control the hunting of migratory game birds through regulations in 50 CFR part 20. On January 1, 1991, lead shot was banned for hunting waterfowl and coots in the United States. At that time, only steel shot was available as a nontoxic alternative to lead shot. Over the years, we have encouraged manufacturers to develop types of shot for waterfowl hunting that are not toxic to migratory birds or other wildlife when ingested and are not harmful to the environment.

The regulations at 50 CFR 20.134 outline the application and approval process for new types of nontoxic shot. When considering approval of a candidate material as nontoxic, we must ensure that it is not hazardous in the environment and that secondary exposure (ingestion of spent shot or its components) is not a hazard to migratory birds. To make that decision, we require each applicant to collect information about the solubility and toxicity of the candidate material. Additionally, for law enforcement purposes, a noninvasive field detection device must be available to distinguish candidate shot from lead shot. This information constitutes the bulk of an application for approval of nontoxic shot.

Title: Approval Procedures for Nontoxic Shot and Shot Coatings (50 CFR 20.134).

OMB Control Number: 1018–0067.

Service Form Number: None.

Frequency of Collection: On occasion.

Description of Respondents: Businesses that produce and/or market shot or shot coatings.

Annual number of applicants	Average time required per response	Total annual burden hours	Dollar value of total annual burden hours @ $20.00 per hour
1	3,200 hours	3,200	64,000

We invite comments concerning this information collection on: (1) Whether or not the collection of information is necessary, including whether or not the information will have practical utility; (2) the accuracy of our estimate of the burden for this collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents. Comments submitted in response to this notice are a matter of public record. We will include and/or summarize each comment in our request to OMB to renew approval for this information collection.

Dated: June 8, 2006.

Hope Grey,

Information Collection Clearance Officer, Fish and Wildlife Service.

[FR Doc. E6–9926 Filed 6–22–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Draft Environmental Impact Statement/ Environmental Impact Report and Receipt of an Application for an Incidental Take Permit for the Pacific Gas & Electric Company Operations and Maintenance Habitat Conservation Plan, San Joaquin Valley, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of the draft Pacific Gas & Electric Company Operations and Maintenance Habitat Conservation Plan (Plan), draft Implementing Agreement (IA), and draft Environmental Impact Statement/ Environmental Impact Report (EIS/EIR). This is in response to receipt of an application from Pacific Gas & Electric Company (PG&E) for an incidental take permit (ITP) pursuant to section 10(a)(1)(B) of the Federal Endangered Species Act of 1973, as amended (ESA). The Service is considering issuing a 30-year permit to the applicant for the take of 65 species (Covered Species), incidental to otherwise lawful activities associated with routine operations and maintenance activities and minor construction for PG&E's gas and electrical distribution facilities, and implementation of the Plan. The activities are proposed to occur within a 12.1 million-acre planning area (Covered Area), located in the San Joaquin Valley, California.

We request comments from the public on the permit application and the draft EIS/EIR, both of which are available for review. The permit application includes the proposed Plan and an accompanying draft IA. The Plan describes the proposed action and the measures the applicant will implement to minimize and mitigate take of the proposed Covered Species. To review the documents, see "Availability of Documents" in the **SUPPLEMENTARY INFORMATION** section.

DATES: Two public meetings will be held on Tuesday, August 2, 2006 from 7 p.m. to 9 p.m., Stockton, CA and Wednesday, August 2, 2006 from 7 p.m. to 9 p.m., Fresno, CA. Written comments should be received on or before September 21, 2006.

ADDRESSES: The meetings locations are: Stockton—San Joaquin County Public Library, Stewart-Hazelton Room, 605 North El Dorado Street, Stockton, CA 95202 and Fresno—Fresno County Public Library, Sarah McCardle Room, 2420 Mariposa Street, Fresno, CA 93721. Send comments by mail or facsimile to: Lori Rinek, Division Chief, Conservation Planning and Recovery, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W–2605, Sacramento, California 95825; facsimile 916–414–6713.

FOR FURTHER INFORMATION CONTACT: Lori Rinek, Division Chief, Conservation Planning and Recovery, Sacramento Fish and Wildlife Office, telephone 916–414–6600.

SUPPLEMENTARY INFORMATION:

Availability of Documents

You may obtain copies of these documents for review by contacting Lori Rinek [see **FOR FURTHER INFORMATION CONTACT**]. Documents also will be available for public review, by appointment, during regular business hours at the Sacramento Fish and Wildlife Office [see **ADDRESSES**]. These documents are also available on the Sacramento Fish and Wildlife Office's Web site at: *http://www.fws.gov/sacramento/*. Copies of all documents are also available for viewing at the following public library locations and offices of the County Clerk:

(1) Cesar Chavez Central Library, 605 N. El Dorado Street, Stockton, California.

(2) Modesto Library, 1500 I Street, Modesto, California.

(3) Merced County Library, 2100 O Street, Merced, California.

(4) Central Fresno County Library, 2420 Mariposa, Fresno, California.

(5) Hanford Library (Main Library), 401 North Douty Street, Hanford, California.

(6) Beale Memorial Branch Library, 701 Truxtun Avenue, Bakersfield, California.

(7) Mariposa County Library, 4978 10th Street Mariposa, California.

(8) Madera County Library, 121 North G Street, Madera, California.

(9) Tulare County Library, 200 West Oak Avenue, Visalia, California.

(10) San Joaquin County Clerk, 222 East Weber Avenue #707, Stockton, California.

(11) Stanislaus County Clerk/Recorder, 1201 I Street, Suite 101, Modesto, California.

(12) County Clerk/Recorder, 2222 M Street, Merced, California.

(13) County Clerk/Recorder, 545 J Street, Los Banos, California.

(14) County Clerk, 2221 Kern Street, Fresno, California.

(15) County Clerk, 1400 West Lacey Boulevard, Hanford, California.

(16) County Clerk, 1115 Truxtun Avenue, Bakersfield, California.

(17) County Clerk, 4982 10th Street, Mariposa, California.

(18) County Clerk, 209 West Yosemite Avenue, Madera, California.

(19) Gregory B. Hardcastle, County Assessor/Clerk, Tulare County Civic Center, 221 South Mooney Boulevard, Visalia, California.

Background Information

Section 9 of the ESA (16 U.S.C. 1538) and implementing regulations prohibit the "take" of fish and wildlife species listed as endangered or threatened. The term "take" is defined under the ESA to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct (16 U.S.C. 1532). "Harm" is defined by Service regulation to include significant habitat modification or degradation where it actually kills or injures listed wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering (50 CFR 17.3(c)). However, under limited circumstances, the Service may issue permits to authorize "incidental take" of listed species. Incidental take is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are found at 50 CFR 17.32 and 17.22, respectively.

Although take of listed plant species is not prohibited under the ESA, and therefore cannot be authorized under an incidental take permit, plant species may be included on a permit in recognition of the conservation benefits provided to them under a habitat conservation plan. The applicant, PG&E, would receive assurances under the Services "No Surprises" regulation 50 CFR 17.22(b)(5) and 17.32(b)(5) for all species included on an ITP.

PG&E seeks a 30-year ITP for covered activities within a proposed 12.1 million-acre planning area, located entirely in the San Joaquin Valley, California. However, the focused area where the majority of impacts are likely to occur is approximately 276,000 acres. Annual species effects are estimated to be approximately 43 acres per year. PG&E has requested a permit for 65 species (Covered Species), 31 of which are currently listed as threatened or endangered under the ESA and 34 that are currently unlisted. Of these 65 species, 23 are animal species and 42 are plant species.

Proposed covered species include 8 wildlife species, currently listed as endangered under the ESA [vernal pool tadpole shrimp (*Lepidurus packardi*), blunt-nosed leopard lizard (*Gambelia sila*), Buena Vista Lake shrew (*Sorex ornatus relictus*), riparian brush rabbit (*Sylvilagus bachmani riparius*), riparian (*San Joaquin Valley*) woodrat (*Neotoma fuscipes riparia*), Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*), giant kangaroo rat (*Dipodomys ingens*), San Joaquin kit fox (*Vulpes macrotis mutica*)], 10 plant species, currently listed as endangered under the ESA [large-flowered fiddleneck (*Amsinckia grandiflora*), California jewelflower (*Caulanthus californicus*), palmate-bracted bird's-beak (*Cordylanthus palmatus*), Kern mallow (*Eremalche kernensis*), San Joaquin woollythreads (*Monolopia [Lembertia] congdonii*), Bakersfield cactus (*Opuntia basilaris var. treleasei*), hairy Orcutt grass (*Orcuttia pilosa*), Hartweg's golden sunburst (*Pseudobahia bahiifolia*), Keck's checkerbloom (*Sidalcea keckii*), and Greene's tuctoria (*Tuctoria greenei*)], and 7 wildlife species currently listed as threatened under the ESA [vernal pool fairy shrimp (*Branchinecta lynchi*), Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), California tiger salamander (*Ambystoma californiense*), California red-legged frog (*Rana aurora draytonii*), giant garter snake (*Thamnophis gigas*), golden eagle (*Aquila chrysaetos*), bald eagle (*Haliaeetus leucocephalus*)], 7 plant species currently listed as threatened under the ESA [Mariposa pussypaws (*Calyptridium pulchellum*), succulent owl's-clover (*Castilleja campestris* ssp. *succulenta*), Hoover's spurge (*Chamaesyce hooveri*), Springville clarkia (*Clarkia springvillensis*), Colusa grass (*Neostapfia colusana*), San Joaquin Valley Orcutt grass (*Orcuttia inaequalis*), San Joaquin adobe sunburst (*Pseudobahia peirsonii*)].

Proposed covered species also include plants and animals that are not listed under the ESA at the current time including 8 wildlife species [midvalley fairy shrimp (*Branchinecta mesovallensis*), limestone salamander (*Hydromantes brunus*), Swainson's hawk (*Buteo swainsoni*), white-tailed kite (*Elanus leucurus*), Western burrowing owl (*Athene cunicularia hypugea*), bank swallow (*Riparia riparia*), tricolored blackbird (*Agelaius tricolor*), and San Joaquin (*Nelson's*) antelope squirrel (*Ammospermophilus nelsoni*)], and 25 plant species [lesser saltscale (*Atriplex minuscula*), Bakersfield smallscale (*Atriplex tularensis*), big tarplant (*Blepharizonia plumose* ssp. *plumosa*), tree-anemone (*Carpenteria californica*), slough thistle (*Cirsium crassicaule*), Mariposa clarkia (*Clarkia biloba* ssp. *australis*), Merced clarkia (*Clarkia lingulata*), Vasek's clarkia (*Clarkia tembloriensis* ssp. *calientensis*), hispid bird's-beak (*Cordylanthus mollis* ssp. *hispidus*), Congdon's woolly sunflower (*Eriophyllum congdonii*), Delta button-celery (*Eryngium racemosum*), striped adobe lily (*Fritillaria striata*), Boggs

Lake hedge-hyssop (*Gratiola heterosepala*), pale-yellow layia (*Layia heterotricha*), Comanche Point layia (*Layia leucopappa*), legenere (*Legenere limosa*), Panoche peppergrass (*Lepidium jaredii* ssp. *album*), Congdon's lewisia (*Lewisia congdonii*), Mason's lilaeopsis (*Lilaeopsis masonii*), Mariposa lupine (*Lupinus citrinus var. deflexus*), showy madia (*Madia radiata*), Hall's bush mallow (*Malacothamnus hallii*), pincushion navarretia (*Navarretia myersii* ssp. *myersii*), oil neststraw (*Stylocline citroleum*), Kings gold (*Twisselmannia californica*).

If the proposed Plan is approved and the permit issued, take authorization for listed covered wildlife species would be effective at the time of permit issuance. Take of the unlisted covered wildlife species would be authorized concurrent with the species' listing under the ESA, should they be listed during the duration of the ITP.

The proposed Plan is intended to be a comprehensive document, providing for regional species conservation and habitat planning, while allowing PG&E to better manage routine operations and maintenance activities and minor construction for PG&E's gas and electrical transmission and distribution facilities. The proposed Plan is also intended to provide a coordinated process for permitting and mitigating the take of Covered Species as an alternative to the current project-by-project approach.

In order to comply with the requirements of the ESA, the proposed Plan addresses a number of required elements, including: goals and objectives; evaluation of the effects of covered activities on Covered Species, including indirect and cumulative effects; a conservation strategy; a monitoring and adaptive management program; descriptions of changed circumstances and remedial measures; identification of funding sources; and an assessment of alternatives to take of listed species.

Covered Activities would include routine operations and maintenance activities and minor construction for PG&E's gas and electrical transmission and distribution facilities and preserve management.

The Plan includes measures to avoid and minimize incidental take of the Covered Species. A monitoring and reporting plan would gauge the Plan's success based on achievement of biological goals and objectives. The Plan's adaptive management program allows for changes in the conservation program if the biological species objectives are not met, or new information becomes available to improve the efficacy of the Plan's conservation strategy.

The conservation strategy was designed to minimize and mitigate the impacts of covered activities, contribute to the recovery of listed Covered Species, and protect and enhance populations of unlisted Covered Species, as proposed. The proposed Plan's conservation strategy uses three mechanisms to address the potential effects of operation and maintenance activities on species covered by the Plan and their habitat: Avoidance and minimization measures, surveys to assess potential impacts on particular species, when warranted; and compensation for impacts that cannot be avoided. Pre-activity surveys will be conducted before any activity begins that has the potential to disturb 0.1 acre or more of habitat in an area of natural vegetation. Pre-activity surveys will be conducted for activities with the potential to disturb 0.1 acre or less of natural habitat when they occur in wetlands, vernal pools, or other areas of known sensitivity, including designated occupied habitat, or when Covered Species are known to be present. Where impacts cannot be avoided, the Plan provides a systematic process for compensation of temporary and permanent losses. All permanent losses of habitat suitable, for one or more of the Covered Species, will be compensated at a 3:1 ratio (3 acres created, restored, or conserved for every acre lost), and temporary losses of suitable habitat will be compensated at a ratio of 0.5:1. Permanent and temporary loss of wetlands, including vernal pools, will be compensated at a 3:1 ratio using existing mitigation banks. Compensation lands must offer habitat characteristics similar to those of the lands disturbed or lost. Several approaches may be used to provide appropriate compensation lands: Purchase of conservation lands, purchase of mitigation credits from existing mitigation banks, establishment of conservation easements on lands currently in PG&E ownership, and purchase of conservation easements on non-PG&E lands. Compensation will be proposed in advance by PG&E and approved by the Service and the California Department of Fish and Game (CDFG) in 5-year increments to ensure timely and continuous compensation.

National Environmental Policy Act Compliance

The proposed issuance of an ITP triggers the need for compliance with the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). Accordingly, a joint NEPA/CEQA document has been prepared. The Service is the Lead Agency responsible for compliance under NEPA, and the CDFG is the Lead Agency with responsibility for compliance with CEQA. As NEPA lead agency, the Service is providing notice of the availability of the draft EIS/EIR, which evaluates the impacts of proposed issuance of the permit and implementation of the Plan, as well as a reasonable range of alternatives.

The Service formally initiated the environmental review of the project through publication of a Notice of Intent to prepare a draft EIS/EIR and held a public scoping meeting which was published in the **Federal Register** on March 25, 2004 (69 FR 15363).

The draft EIS/EIR analyzes three alternatives in addition to the proposed Plan. Each alternative would include the same federal components as the proposed Plan (*i.e.*, approval of the Plan, IA, and issuance of an ITP). The conservation strategy of all three alternatives would incorporate avoidance and minimization measures, pre-activity surveys, and compensation for impacts that cannot be avoided. The alternatives and the proposed Plan differ in the details of their conservation strategies. The three alternatives are described below.

Alternative 1 (Plan with Reduced Take) would require a more comprehensive implementation of avoidance and minimization measures than the proposed Plan. Specifically, under Alternative 1, avoidance and minimization measures would be implemented for all activities, including all small disturbance activities. These additional requirements would reduce take below the level anticipated under the proposed Plan. Compensation ratios for habitat loss or disturbance would be the same as those for the proposed Plan.

Alternative 2 (Plan with Enhanced Compensation) would provide enhanced compensation for impacts that cannot be avoided. Under Alternative 2, both permanent and temporary losses of suitable habitat would be compensated at a 3:1 ratio. Loss of wetlands, including vernal pools, would be compensated at a 3:1 ratio if compensation is accomplished through an existing mitigation bank, and at a 6:1 ratio if compensation takes place outside existing banks. Avoidance, minimization measures, and thresholds for implementation of avoidance and minimization measures would be the same as those for the proposed Plan.

Alternative 3 (Plan with Reduced Number of Covered Species) would cover fewer species than the proposed

Plan. The following species covered under the proposed Plan would not be covered under Alternative 3: the vernal pool crustaceans, limestone salamander, California red-legged frog, giant garter snake, bank swallow, tricolored blackbird, Buena Vista Lake shrew, riparian brush rabbit, riparian woodrat, Tipton kangaroo rat, and 11 plant species. This alternative would focus on those species that are currently Federal or State listed and have been identified as having more than 2 acres of habitat likely to be disturbed by operations or maintenance activities each year. Avoidance and minimization measures, thresholds for implementation of avoidance and minimization measures, and habitat compensation would be the same as the proposed Plan.

Under the No-Action/No-Project alternative, the proposed Plan would not be adopted, and a permit pursuant to section 10(a)(1)(B) of the ESA would not be issued by the Service. Compliance with the ESA would continue to be addressed on a case-by-case basis.

Public Comments

The Service and PG&E invite the public to comment on the draft Plan, draft EIS/EIR, and draft IA during a 90-day public comment period beginning on the date of this notice. The comment period is opened for 90 days to eliminate the need for an extension subsequent to the close of the comment period. All comments received, including names and addresses, will become part of the administrative record and may be made available to the public.

The Service will evaluate the application, associated documents, and comments submitted thereon to prepare the Final EIS/EIR, HCP and IA. A permit decision will be made no sooner than 30 days after the publication of the final EIS/EIR and completion of the Record of Decision.

This notice is provided pursuant to section 10(a) of the ESA and Service regulations for implementing NEPA, as amended (40 CFR 1506.6). We provide this notice in order to allow the public, agencies, or other organizations to review and comment on these documents.

Dated: June 16, 2006.

Douglas Vandegraft,

Acting Deputy Manager, California/Nevada Operations Office, Sacramento, California.

[FR Doc. E6–9847 Filed 6–22–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–080–06–1310–EJ]

Notice of Availability of a Final Environmental Impact Statement for the Resource Development Group Uinta Basin Natural Gas Project, Uintah County, UT

AGENCY: Bureau of Land Management, Department of Interior.

ACTION: Notice of availability.

SUMMARY: Under the National Environmental Policy Act (NEPA), the Federal Land Policy and Management Act of 1976 (FLPMA) and associated regulations, the Bureau of Land Management (BLM) announces the availability of a Final Environmental Impact Statement (FEIS) for the Resource Development Group Uinta Basin Natural Gas Project proposed by the Resource Development Group (RDG).

DATES: A decision on the proposed action will not be made until 30 days after the date EPA publishes this notice in the **Federal Register** (FR). Written comments may be submitted during this 30-day period.

ADDRESSES: Copies of the FEIS are available for public inspection at the following BLM office locations: Bureau of Land Management, Utah State Office 440 West 200 South, Suite 500, Salt Lake City, UT 84101 and the Bureau of Land Management, Vernal Field Office, 150 South 500 East, Vernal, UT 84078.

FOR FURTHER INFORMATION CONTACT: Stephanie Howard, Project Manager, BLM Vernal Field Office 170 South 500 East, Vernal, UT 84078. Ms. Howard may also be reached at 435–781–4469.

SUPPLEMENTARY INFORMATION: An Environmental Assessment (EA) was originally published in February 1999. A Decision Record (DR)/Finding of No Significant Impact (FONSI) was signed by the BLM on January 29, 1999. Subsequent to its decision, the BLM received 12 requests for a State Director Review and one request for a stay of the DR/FONSI. A stay was issued until April 16, 1999 and subsequently extended, pending a thorough review of the requests received. Those requesting the review and stay questioned the nature and extent of impacts disclosed in the EA and the validity of the DR/FONSI. On May 21, 1999, the DR/FONSI was vacated and the proposal was remanded to the BLM, Vernal Field Office (VFO) for the preparation of an environmental impact statement (EIS). RDG operators submitted their Proposed Action to the BLM on September 10, 1999, and the Notice of Intent was published in the **Federal Register** on October 22, 1999 (64 FR 57122). A notice of availability of the Draft EIS (DEIS) and a 45-day comment period was published in the FR on August 8, 2003.

The BLM prepared the FEIS to assess the environmental and economic impacts associated with natural gas development in the Uinta Basin, Utah. The FEIS is a complete document. It includes Section 7 consultation and Biological Opinion from the FWS, plus a presentation of substantive comments received on the DEIS. The FEIS also includes the BLM's responses to these comments and changes to the text in response to the comments. Changes were made to clarify, correct and/or expand information to aid the public's understanding of the proposed project, reasonable alternatives and their effects of the environment.

The FEIS analyzes four alternatives for managing natural gas development on private, State of Utah, and BLM-administered lands.

Alternative 1—The Proposed Action—consists of the development of 423 natural gas wells, access roads, support facilities, a transmission pipeline, and a compressor station within the 79,914 acres project area. *Alternative 2*—Additional Wildlife Considerations—would incorporate the same construction, operational, decommissioning, and reclamation components as the Proposed Action, with the addition of environmental considerations that could require the relocation of well pads, roads, and ancillary facilities within the lease, or restrict development during certain periods of the year, or require special construction, operational, and reclamation methods to reduce potential environmental impacts. *Alternative 3*—Additional Environmental Considerations—would incorporate the same operational components as the Alternative 1 and the same environmental considerations as Alternative 2 as well as the expansion of the mule deer winter range protection boundary and the application of United States Fish and Wildlife Service recommended guidelines for raptor protection. Under this alternative, 50 fewer wells would be drilled over the life of the project when compared to the Alternatives 1 and 2 (*i.e.*, only 373 wells). *Alternative 4*—No Action—would allow current land use practices including existing oil and gas production to continue. It was assumed that 55 wells would be drilled over the 20 year life of the project, under the No

Action Alternative. The wells would be drilled under the Authority of the Book Cliffs Resource Management Plan and the terms and conditions of oil and gas leases already held by RDG.

The 45-day comment period for the DEIS ended on September 22, 2003, although agency comment letters were accepted after that date. Comments were received from 21 individuals and/or organizations during public comment process.

Public comments addressed a broad range of issues. The issues, with the number of comments for each item in parentheses, are as follows: NEPA process (15), purpose and need (9), and alternatives (21) mitigation (39), geology/minerals (1), water resources (10), air quality (14), soils/watershed/floodplains (3), vegetation (1), riparian/wetland areas (2), wildlife (14), special status species (7), cultural resources (7), paleontological resources (1), recreation (4), wilderness characteristics (7), socio-economics (5), and miscellaneous (6). Public comments resulted in the addition of clarifying text, but did not significantly change the analysis of the FEIS.

Consistent with NEPA regulations, (40 CFR 1503.4(b)), all substantive comments on the Draft EIS received a response. Substantive comments includes those that challenge the information in the Draft EIS as being inaccurate or inadequate, or which offer specific information that may have a bearing on the decision. Comments that merely expressed an opinion for or against the project were not identified as a comment requiring a response. In cases where the comment was not substantive, but appeared to indicate that information in the EIS was either misunderstood or unclear, a response was prepared to clarify the information. Comments received on the Draft EIS and the responses to those comments are found in *Appendix A* of the Final EIS.

Based on the information contained in the FEIS, consultation with 13 Native American Tribes having historical and/or ethnological ties to the Uinta Basin, and the information received from the U.S. Fish and Wildlife Services, the BLM has identified Alternative 2—Additional Wildlife Considerations, as the Preferred Alternative.

Dated: April 20, 2006.

William Stringer,

Vernal Field Manager.

[FR Doc. E6–9941 Filed 6–22–06; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before June 10, 2006. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St., NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by July 10, 2006.

John W. Roberts,

Acting Chief, National Register/National Historic Landmarks Program.

CALIFORNIA

Alameda County

Havens, Weston, House, 255 Panoramic Way, Berkeley, 06000611

Ladies' Relief Society Children's Home, 365 45th St., Oakland, 06000612

San Diego County

Los Penasquitos Historic and Archeological District, 12020 Black Mountain Rd., San Diego, 06000613

CONNECTICUT

Hartford County

West Boulevard Historic District, Roughly along Rodney St., and West Boulevard, Hartford, 06000615

New Haven County Schlaraffia Burg, 715 Sherman Pkwy—280 W. Hazel St., New Haven, 06000616

FLORIDA

Broward County

South Side School, 701 S. Andrews Ave., Fort Lauderdale, 06000617

Leon County

Florida Governor's Mansion, 700 N. Adams St., Tallahassee, 06000618

Martin County

Georges Valentine Shipwreck Site, Offshore of the House of Refuge, Stuart, 06000619

Okaloosa County

Crestview Commercial Historic District, Roughly bounded by Industrial Dr., N. Ferdon Blvd., N. Wilson St., and James Lee Blvd., Crestview, 06000620

KANSAS

Ellis County

Chestnut Street Historic District, Main, W. 9th, W 10th, 11th, E 11th, E. 12th Sts., Hays, 06000621

Franklin County

Historic Ottawa Central Business District, Roughly bounded by Marias des Cygnes R., S 5th St., Walnut St. and Hickory St., Ottawa, 06000622

Geary County

Junction City Downtown Historic District, Roughly both sides of Washington Ave.. from 6th to 9th Sts., Junction City, 06000623

Montgomery County

Independence Downtown Historic District, Chestnut, Laurel, Myrtle, Main, Maple bet. 5th and 9th, Independence, 06000624

Sedgwick County

Metholatum Company Building, 1300 E Douglas, Wichita, 06000625

MICHIGAN

Keweenaw County

Passage Island Light Station, (Light Stations of the United States MPS) SW end of Passage Is., 3.25 mi NE of Isle Royale, in NW Lake Superior, Houghton Township, 06000632

MISSOURI

Buchanan County

Mount Mora Cemetery, 824 Mount Mora Rd., St. Joseph, 06000626

Howard County

Hickman, Thomas, House, 10 Research Center Rd., New Franklin, 06000627

St. Louis Independent City

Pevely Dairy Company Buildings, 3301 and 3305 Park Ave., St. Louis (Independent City), 06000628

Polar Wave Ice and Fuel Company, Plant No. 6, 502 LaSalle St., St. Louis (Independent City), 06000629

NEW JERSEY

Cumberland County

Ship John Shoal Light Station, (Light Stations of the United States MPS) In Delaware Bay, 3.3 mi. W–SW of Sea Breeze, Sea Breeze, 06000630

Hudson County

Robbins Reef Light Station, (Light Stations of the United States MPS) SW Upper New York Bay, 2.6 mi. SE of I–78 Interchange 14A, Bayonne, 06000631

NEW MEXICO

Bernalillo County

Huning Highlands Conoco Service Station, (Auto-oriented Commercial Development in Albuquerque MPS) 601 Coal Ave. SE, Albuquerque, 06000633

Lea County

Sewalt, Mathew Elmore, House, 121 E. Jefferson Ave., Lovington, 06000634

NEW YORK

Suffolk County

Latimer Reef Light Station, (Light Stations of the United States MPS) In Fisher's Island Sound, one mi NW of East Point on Fisher's Island, Fisher's Island, 06000635

NORTH DAKOTA

Burleigh County

Grady, Fred and Gladys, House, (Nonpartisan League's Home Building Association Resources in North Dakota MPS) 414 East Avenue F, Bismarck, 06000636

Lundquist, Oliver and Gertrude, House, (Nonpartisan League's Home Building Association Resources in North Dakota MPS) 622 W. Thayer St., Bismarck, 06000637

WISCONSIN

Door County

IRIS (Shipwreck), (Great Lakes Shipwreck Sites of Wisconsin MPS) Adjacent of Rock Island Ferry Dock, Jackson Harbor, Washington, 06000638

OCEAN WAVE (Shipwreck), (Great Lakes Shipwreck Sites of Wisconsin MPS) 2 mi. off Whitefish Point, Lake Michigan, 06000639

A request for REMOVAL has been made for following resource:

TENNESSEE

Hamilton County

Hardy, Richard; Junior High School (Hunt, Reuben H., Buildings in Hamilton County TR) 2115 Dodson Ave. Chattanooga, 80003812

Newton Chevrolet Building 329 Market St. Chattanooga, 73001775

Park Hotel 117 E. 7th St. Chattanooga, 8003821

Thomas, Benjamin F., House 938 McCallie Ave. Chattanooga, 80003825

[FR Doc. E6–9915 Filed 6–22–06; 8:45 am]

BILLING CODE 4312–51–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–06–042]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: June 29, 2006 at 11 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436. Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: none.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 731–TA–636–638 (Second Review) (Stainless Steel Wire Rod from Brazil, France, and India)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before July 13, 2006.)
5. Inv. Nos. 701–TA–253 and 731–TA–132, 252, 271, 273, 409, 410, 532–534, and 536 (Second Review) (Certain Pipe and Tube from Argentina, Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before July 18, 2006.)
6. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: June 20, 2006.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 06–5666 Filed 6–21–06; 1:54 pm]

BILLING CODE 7020–02–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (06–040)]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council.

DATES: Thursday, July 20, 2006, 8 a.m.–5 p.m.

ADDRESSES: Admiral A&B Conference Room, Hilton Houston NASA Clear Lake, 3000 NASA Road One, Houston, TX 77058–4322.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Blackerby, Designated Federal Official, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–4688.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting includes updates from each of the Council committees, including discussion and deliberation of potential recommendations. The Council Committees address NASA interests in the following areas: Aeronautics, Audit and Finance, Space Exploration, Human Capital, and Science. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. E6–9964 Filed 6–22–06; 8:45 am]

BILLING CODE 7510–13–P

THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of Humanities Panels will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Heather Gottry, Acting Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* July 10, 2006.

Time: 8:30 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for Fellowships in American History II, submitted to the Division of Research Programs at the May 5, 2006 deadline.

2. *Date:* July 10, 2006.
Time: 8:30 to 5 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships in American History III, submitted to the Division of Research Programs at the May 5, 2006 deadline.

3. *Date:* July 11, 2006.
Time: 8:30 to 5 p.m.
Room: 415.
Program: This meeting will review applications for Fellowships in American Studies I, submitted to the Division of Research Programs at the May 5, 2006 deadline.

4. *Date:* July 11, 2006.
Time: 8:30 to 5 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships in History of Art and Architecture I, submitted to the Division of Research Programs at the May 5, 2006 deadline.

5. *Date:* July 12, 2006.
Time: 8:30 to 5 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships in European History I, submitted to the Division of Research Programs at the May 5, 2006 deadline.

6. *Date:* July 13, 2006.
Time: 8:30 to 5:30 p.m.
Room: 420.
Program: This meeting will review applications for Art and Other Public Programming, submitted to the Office of Challenge Grants at the May 1, 2006 deadline.

7. *Date:* July 14, 2006.
Time: 8:30 to 5 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships in Asian Studies I, submitted to the Division of Research Programs at the May 5, 2006 deadline.

8. *Date:* July 14, 2006.
Time: 8:30 to 5 p.m.
Room: 415.
Program: This meeting will review applications for Fellowships in American History and Studies I, submitted to the Division of Research Programs at the May 5, 2006 deadline.

9. *Date:* July 17, 2006.
Time: 8:30 to 5 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships in Sociology, Anthropology, and Psychology, submitted to the Division of Research Programs at the May 5, 2006 deadline.

10. *Date:* July 18, 2006.
Time: 8:30 to 5:30 p.m.
Room: 420.
Program: This meeting will review applications for Academic and Research Institutions, submitted to the Office of Challenge Grants at the May 1, 2006 deadline.

11. *Date:* July 18, 2006.
Time: 8:30 to 5 p.m.
Room: 315.
Program: This meeting will review applications for Faculty Research Awards in Humanities I, submitted to the Division of Research Programs at the May 5, 2006 deadline.

12. *Date:* July 18, 2006.
Time: 8:30 to 5 p.m.
Room: 415.
Program: This meeting will review applications for Faculty Research Awards in Humanities II, submitted to the Division of Research Programs at the May 5, 2006 deadline.

13. *Date:* July 19, 2006.
Time: 8:30 to 5 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships in British Literature I, submitted to the Division of Research Programs at the May 5, 2006 deadline.

14. *Date:* July 19, 2006.
Time: 8:30 to 5 p.m.
Room: 415.
Program: This meeting will review applications for Fellowships in British Literature II, submitted to the Division of Research Programs at the May 5, 2006 deadline.

15. *Date:* July 20, 2006.
Time: 8:30 to 5 p.m.
Room: 415.
Program: This meeting will review applications for Fellowships in History of Art and Architecture II, submitted to the Division of Research Programs at the May 5, 2006 deadline.

16. *Date:* July 20, 2006.
Time: 8:30 to 5 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships in American History I, submitted to the Division of Research Programs at the May 5, 2006 deadline.

17. *Date:* July 24, 2006.
Time: 8:30 to 5 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships in Anthropology and Archaeology, submitted to the Division of Research Programs at the May 5, 2006 deadline.

18. *Date:* July 24, 2006.
Time: 8:30 to 5 p.m.
Room: 415.
Program: This meeting will review applications for Fellowships in Asian Studies II, submitted to the Division of Research Programs at the May 5, 2006 deadline.

19. *Date:* July 25, 2006.
Time: 8:30 to 5 p.m.
Room: 415.
Program: This meeting will review applications for Fellowships in Germanic and Slavic Studies, submitted to the Division of Research Programs at the May 5, 2006 deadline.

20. *Date:* July 25, 2006.
Time: 8:30 to 5 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships in Political Science and Jurisprudence, submitted to the Division of Research Programs at the May 5, 2006 deadline.

21. *Date:* July 31, 2006.
Time: 8:30 to 5 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships in African and Middle Eastern Studies, submitted to the Division of Research Programs at the May 5, 2006 deadline.

Heather Gottry,
Acting Advisory Committee, Management Officer.

[FR Doc. E6–9914 Filed 6–22–06; 8:45 am]
BILLING CODE 7536–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Public Meeting for Fuel Cycle Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Meeting notice and request for speakers.

FOR FURTHER INFORMATION CONTACT: James Smith, Project Manager, Technical Support Section, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20005–0001. Telephone: (301) 415–6459; fax number: (301) 415–5370; e-mail: *jas4@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The Nuclear Regulatory Commission (NRC) is hosting a seminar, The Fuel Cycle Information Exchange 2006 (FCIX 2006), on August 30 and 31, 2006, to provide an opportunity for licensees, NRC staff, and other stakeholders to exchange information and discuss

issues of interest pertaining to the regulation of NRC-regulated fuel cycle facilities.

The seminar will be held in Rockville, Maryland, at the Universities of Maryland at the Shady Grove Campus Auditorium and will be open to the public. Fuel Cycle licensees and other interested parties were previously notified of the possibility of this meeting in a letter from Robert Pierson, dated November 28, 2005, (ADAMS accession number ML053220226). In that letter, Mr. Pierson also solicited topics of discussion and volunteer speakers for the meeting. We are expecting that NRC staff, licensees and certificate holders, and other interested parties and stakeholders will be making presentations on varying subjects of interest, with opportunity for followup discussion on each subject.

The proposed items of discussion are listed below; however, the NRC is seeking additional speakers to discuss topics of a broad nature, relative to the nuclear fuel cycle. If you would like an opportunity to discuss an issue, or to offer an additional topic of discussion, please contact the staff member listed below.

II. Currently Proposed Topics of Discussion

10 CFR Part 70, Subpart H Implementation Issues.

Databases and Items Relied on for Safety (IROFS) Tracking Systems.

Boundaries of IROFS.

Impact of Increased Use of Nuclear Energy in Domestic Electricity Generation.

IAEA Safety Documents Related to Fuel Cycle Facilities.

Status Report of Current NRC Fuel Cycle Related Initiatives.

360-Degree Feedback From the Industry and Public of Issues of Interest Pertaining to the Regulation of NRC-Regulated Fuel Cycle Facilities.

Overview and Experience Under the NRC's New Hearing Process by Fuel Cycle Applicants and Licensees.

III. Dates and Location

Universities of Maryland at the Shady Grove Campus Auditorium, 9630 Gudelsky Drive, Rockville, MD 20850.

Dates: August 30, 2006, 9 a.m.–4:30 p.m.; August 31, 2006, 9 a.m.–12 p.m.

IV. Contact

James Smith, Project Manager, Office of Nuclear Material Safety and Safeguards, Division of Fuel Cycle Safety and Safeguards, Special Projects Branch, Mail Stop: T8F42, 301–415–6459, Fax: 301–415–5370, e-mail: *jas4@nrc.gov*.

V. Further Information

The document related to this action is 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 Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS ascension number for the document related to this notice is provided in the following table. If you do not have access to ADAMS or if there are problems in accessing the document 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*.

Dated at Rockville, Maryland, this 15th day of June 2006.

For the Nuclear Regulatory Commission.

Dennis C. Morey,

Acting Chief, Technical Support Section, Special Projects Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E6–9923 Filed 6–22–06; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

Summary: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Repayment of Debt.

(2) *Form(s) submitted:* G–421f.

(3) *OMB Number:* 3220–0169.

(4) *Expiration date of current OMB clearance:* 8/31/2006.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 300.

(8) *Total annual responses:* 300.

(9) *Total annual reporting hours:* 25.

(10) *Collection description:* Section 2 of the Railroad Retirement Act provides for payment of annuities to retired or disabled railroad employees, their spouses, and eligible survivors. When the RRB determines that an overpayment of RRA benefits has occurred, it initiates prompt action to notify the claimant of the overpayment and to recover the amount owed. The collection obtains information needed to allow for repayment by the claimant by credit card, in addition to the customary form of payment by check or money order.

Additional Information or Comments

Copies of the forms and supporting documents can be obtained from Charles Mierzwa, the agency clearance officer (312–751–3363) or *Charles.Mierzwa@rrb.gov*.

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or *Ronald.Hodapp@rrb.gov* and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Charles Mierzwa,

Clearance Officer.

[FR Doc. E6–9953 Filed 6–22–06; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54004; File No. SR–CBOE–2005–63]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of a Proposed Rule Change and Amendments Nos. 1 and 2 Thereto Relating to the Nullification and Adjustment of Equity Options Transactions

June 16, 2006.

I. Introduction

On August 12, 2005, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to provide for an adjustment provision for transactions during opening rotation resulting from obvious errors between a non-broker-dealer customer and CBOE Market-Maker(s), as well as transactions during opening rotation between a non-broker-dealer customer and at least one non-CBOE Market-Maker. On October 28, 2005, the CBOE submitted Amendment No. 1 to the proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

change.[3] On April 7, 2006, the CBOE submitted Amendment No. 2 to the proposed rule change.[4] The proposed rule change and Amendments No. 1 and 2 were published for comment in the **Federal Register** on April 26, 2006.[5] The Commission received one comment letter on the proposal.[6] This order approves the proposed rule change, as amended.

II. Description of the Proposed Rule Change

The CBOE proposes to revise CBOE Rule 6.25, the Exchange's obvious error rule. Under the proposal, non-broker-dealer customers would be permitted to request review for adjustment of an opening rotation transaction from Trading Officials until 3:30 p.m. Central Time ("CT") on the day that the transaction occurred.[7] According to the Exchange, the purpose of the proposal is to protect non-broker-dealer customers from obvious errors during the opening rotation when they do not discover the error within 15 minutes of the execution of the transaction. The proposed rule change, however, would not affect the procedure set forth in CBOE Rule 6.25(b)(1), which permits a non-broker-dealer customer to request within 15 minutes of an obvious error transaction to have the transaction nullified by Trading Officials, unless both parties agree to an adjustment price within 30 minutes of being notified by Trading Officials of the obvious error.

For transactions during opening rotation between a non-broker-dealer customer and a CBOE Market-Maker, after 15 minutes have elapsed since the trade involving the obvious error occurred, but before 3:30 p.m. CT on the same trading day, the non-broker-dealer customer would be able to request an obvious error review. In determining the extent of any adjustment of the transaction, the Trading Officials would look to the competing exchange with the most liquidity in the option class for the two preceding months. The transaction would be adjusted to the competing exchange's disseminated price at the time the trade occurred (provided the adjustment does not violate the non-broker-dealer customer's limit price), but only up to the number of contracts that the competing exchange was displaying as its disseminated size at the time the trade occurred.

For transactions during opening rotation between a non-broker-dealer and at least one non-CBOE Market-Maker, which could include (but is not limited to) an away specialist, an upstairs firm, or another non-broker-dealer customer, after the 15-minute notification period has passed, but before 3:30 p.m. CT on the same trading day, the non-broker-dealer customer would be able to request an obvious error review. In determining the extent of any adjustment to the transaction, the Trading Officials would look to the competing exchange with the most liquidity in the options class for the two preceding calendar months. The transaction would be adjusted to the competing exchange's disseminated price at the time the trade occurred, but it would not be adjusted beyond the non-CBOE Market-Maker's limit price, and not for a size greater than the disseminated size of the competing exchange.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[8] and, in particular, the requirements of section 6(b) of the Act[9] and the rules and regulations thereunder. Specifically, the Commission finds that the proposal is consistent with section 6(b)(5) of the Act,[10] in that the proposal promotes just and equitable principles of trade, removes impediments to and perfects the mechanism of a free and open market and a national market system, and protects investors and the public interest.

The Commission considers that in most circumstances trades that are executed between parties should be honored. On rare occasions, the price of the executed trade indicates an "obvious error" may exist, suggesting that it is unrealistic to expect that the parties to the trade had come to a meeting of the minds regarding the terms of the transaction. In the Commission's view, the determination of whether an "obvious error" has occurred should be based on specific and objective criteria and subject to specific and objective procedures. CBOE's proposal would permit a non-broker-dealer customer, whose order was executed during CBOE's opening rotation but who did not discover that its transaction may have involved an obvious error within 15 minutes of its execution, to request an obvious error review for adjustment of the transaction from Trading Officials until 3:30 p.m. CT on the date of the transaction. The Commission believes that permitting non-broker-dealer customers to request an obvious error review until 3:30 p.m. CT on the day of the transaction would give those customers a reasonable amount of time to discover an obvious error transaction that occurred during an opening rotation and to request an obvious error review.

The Commission also believes that CBOE's proposal with respect to the price to which a transaction will be adjusted is consistent with the Act. Under the Exchange's proposal, an obvious error transaction during an opening rotation involving a non-broker-dealer customer would be adjusted to the Theoretical Price (provided that it does not violate the customer's limit price). The Theoretical Price of an option series is, for securities traded on at least one other options exchange, the last bid price with respect to an erroneous sell transaction and the last offer price with respect to an erroneous buy transaction, just prior to the trade, disseminated by the competing options exchange that has the most liquidity in that option class in the previous two calendar months. The Commission believes that this basis for determining Theoretical Price is consistent with the Linkage Plan, which requires the options exchanges to avoid trading through better prices available on all exchanges, not just the exchange that has the most liquidity, because the Linkage Plan does not apply to transactions effected during opening rotations.

The Commission has carefully considered the comments raised in the Citadel Letter.[11] The Citadel Letter stated that the proposed rule change effectively would require CBOE Market Makers retroactively to trade during the opening rotation at prices at which they were not quoting and at which they did not want to trade. Citadel indicated that the price protections offered by the Linkage Plan do not apply to transactions during opening rotation.

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[3] Amendment No. 1 replaced the original filing in its entirety.

[4] Amendment No. 2 clarified and revised the example set forth in the purpose section of the filing.

[5] Securities Exchange Act Release No. 53672 (April 18, 2006), 71 FR 24767 (April 26, 2006).

[6] *See* letter to Jonathan G. Katz, Secretary, Commission, from Matthew B. Hinerfeld, Managing Director and Deputy General Counsel, Citadel Investment Group, L.L.C. on behalf of Citadel Derivatives Group LLC (collectively "Citadel") dated May 17, 2006 ("Citadel Letter").

[7] The term "Trading Officials" means two Exchange members designated as Floor Officials and one member of the Exchange's trading floor liaison staff. *See* Interpretations and Policies .02 of CBOE Rule 6.25.

[8] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] *See* Citadel Letter, *supra* note 6.

Citadel noted that, as a result, there is a risk that orders executed on one exchange as part of the opening rotation could receive a different price if executed as part of the opening rotation on another exchange. Citadel asserted that no "obvious error" is involved and that the proposal is an inappropriate punitive measure because the market maker has not done anything wrong. Citadel also stated that the proposal creates an irrational distinction between those customer orders that get the benefit of the adjustment and those that do not.

The Exchange countered that its obvious error rule currently applies to transactions occurring as part of the opening rotation and provides for the adjustment of market maker to market maker transactions to prices that the market maker may not have been quoting at the opening.[12] The Exchange also noted that its obvious error rule currently provides for differing treatment with respect to obvious errors depending on the nature of the order and the parties involved. According to the Exchange, the proposed rule change is consonant with its obvious error rule, which currently addresses an error at the opening, adjustment of an opening transaction, and differing treatment of customers and market makers.

The Commission believes that the Citadel Letter does not raise any issues that would preclude approval of the proposed rule change. In the Commission's view, the proposed rule change strikes a reasonable balance by affording non-broker-dealer customers the opportunity to seek review of an opening rotation transaction until 3:30 CT on the day of the transaction, if the transaction occurred at a price that satisfies the threshold set forth in the Exchange's obvious error rule, while at the same time limiting the size and amount of any such adjustment.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[13] that the proposed rule change (SR–CBOE–2005–63), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Nancy M. Morris,

Secretary.

[FR Doc. E6–9935 Filed 6–22–06; 8:45 am]

BILLING CODE 8010–01–P

[12] Telephone conference among Andrew Spiwak, Director, Legal Division, and Chief Enforcement Attorney, Jennifer Lamie, Managing Senior Attorney, and Nancy Sanow, Assistant Director, Division of Market Regulation, Commission on June 13, 2006.

[13] 15 U.S.C. 78f(b)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54003; File No. SR–NASD–2006–056]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 To Establish a Package of Real-Time and Near-Real-Time Data Products Called the Market Analytics Data Package

June 16, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 24, 2006, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. On June 8, 2006, Nasdaq filed Amendment No. 1. Nasdaq has designated the proposed rule change as constituting a "non-controversial" rule change pursuant to section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to establish a package of real-time and near-real-time data products that provide a new level of transparency to trading activity on Nasdaq trading systems to interested subscribers on a purely voluntary basis. The text of the proposed rule change is available at NASD, at the Commission, and at *http://www.nasdaq.com/about/RuleFilings/Filings2006.stm.*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19–b4(f)(6). Nasdaq gave the Commission written notice of its intent to file the proposed rule change on March 24, 2006. For purposes of calculating the 60-day abrogation period, the Commission considers the period to have commenced on June 8, 2006, the day Nasdaq filed Amendment No. 1.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq 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. Nasdaq 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

Nasdaq proposes to establish a package of real-time and near-real-time data products that provide a new level of transparency to trading activity on Nasdaq trading systems to interested subscribers on a purely voluntary basis. The Market Analytics Data Package will consist of one or more of the following products:

Market Velocity—Market Velocity is akin to the audible noise and visible activity that traders use on a physical trading floor to detect changes in market direction, momentum, or liquidity. Nasdaq measures the frequency and size of orders submitted to the trading system, including under certain conditions shares not visible in the quote montage. Market Velocity can be expressed as a number of shares, for example, the current number of shares in market and aggressive limit orders that have arrived in the Nasdaq Market Center execution system. Market Velocity can also be expressed as a ratio of the current number of shares relative to what is expected in each stock for that time of day. Market Velocity may also be expressed as an alert when the underlying data exceeds a threshold.

Market Forces—Market Forces uses the same order and share volume information used in Market Velocity, but categorizes the orders by whether they are buys or sells. Market Forces provides an indication of market direction and is expressed as a number of shares or a percentage of shares in buy versus sell orders. Market Forces may also be expressed as an alert when the underlying data exceeds a threshold.

Market Velocity and Market Forces use pre-trade order information to signal changes in market liquidity. For example, Market Velocity will signal when there is unusually high or low share volume in limit orders in the Nasdaq Market Center execution system. Unusually high limit order share volume can signal an opportunity to make larger trades. Unusually low share volume can alert traders that large market orders are likely to have a larger than usual price impact. Market Forces complements the Market Velocity alerts by indicating which side of the market has the propensity of the limit order share volume.

Market Velocity and Market Forces may include shares not visible in existing quote and order data feeds. For example, Market Velocity and Market Forces can signal changes in the share volume in orders routed through Nasdaq to other trading centers. Without Market Velocity and Market Forces, immediate or cancel orders that do not find the best price on the Nasdaq book will be routed to other trading centers without any information showing up in existing Nasdaq data feeds. Market Velocity and Market Forces will not include reserve or hidden orders.

Market Velocity and Market Forces are real-time data products that will be distributed over a new real-time data feed.

Competitive VWAP Benchmark—Competitive VWAP (CVWAP) Benchmark is a complement to the Volume Weighted Average Price (VWAP), a benchmark often used by institutional investors to determine whether they received a good price for a large trade. CVWAP Benchmark provides the best and worst average price performance by actual market makers trading on the Nasdaq Market Center execution system. Institutional investors can compare the price they received to the CVWAP Benchmark to determine how their trade compares with a range of actual trader performance. CVWAP Benchmark can also help investors identify stocks where broker selection is very important (those with a wide range between best and worst CVWAP performance).

A CVWAP Benchmark is calculated as follows: (1) A buy-side market participant would like to benchmark the price received for a large purchase of issue ABCD that they sent to their sell-side broker at 10 a.m. and was completed at 2 p.m.; (2) the buy-side participant enters the issue, start time, end time, and minimum dollar volume into a Web site or other query facility; (3) Nasdaq receives the query information and calculates individual volume weighted average prices for each market maker that bought ABCD between 10 a.m. and 2 p.m. using Nasdaq trading systems; (4) Nasdaq filters out market makers that purchased amounts below the minimum dollar volume chosen (for example, a market maker that bought 100 shares during the time period does not provide a valid benchmark for a large order); (5) Nasdaq ranks the individual buy VWAPs achieved by the market makers that remain and reports the best and worst VWAP prices (but not the identities of the market participants that achieved those prices); (6) the buy-side market participant can then compare the best and worst performance to the price they received from their broker.

CVWAP Benchmark is an intra-day, query-response product that will require vendors to send Nasdaq query parameters and Nasdaq to make calculations and reply with results. Nasdaq will not identify the market participants that achieved the best or worst CVWAP Benchmark for any trade or period of time. The only exception would be if Nasdaq built an opt-in facility for market participants to choose to advertise situations when they achieved the best performance.

CVWAP Leaders—CVWAP Leaders is a periodic market maker leader board that enables institutional investors to identify the firms with the most experience trading a particular stock or type of stock. Unlike ordinary leader boards that rank market makers by traded volume alone, CVWAP Leaders ranks them by share volume weighted by execution quality (the difference between the market participant VWAP and the overall VWAP).

The CVWAP Leader board is calculated as follows: (1) Collect all Nasdaq Market Center execution system trades reported over a period of time, such as five days; (2) divide all trades into buckets of records by issue, side (buying or selling), and half hour; (3) for each bucket, calculate the overall volume weighted average price for all trades and an individual volume weighted average price for each market participant; (4) compare each market participant's individual VWAP to the overall VWAP and allocate each market participant points equal to the difference in pennies between their individual VWAP and the overall VWAP multiplied by the number of shares they transacted during that period; (5) add up all the points earned by each market participant in each issue (across all buckets for that issue); (6) rank market participants within that issue by the number of points earned.

CVWAP Leaders is a delayed list of issues and participants that is calculated from all trades over an extended period of time, such as a week. Detailed trade by trade information is masked by the price weighting that prevents anyone from being able to derive the number of shares traded or prices received by any particular participant. CVWAP Leaders is distributed periodically as a flat file using a standard file transfer protocol.

Proposed Pricing Structure

Nasdaq will offer a limited introductory period of one month during which new Market Analytics subscribers will receive the data for free. After the introductory period, organizations that receive Market Analytics directly or indirectly (through a retransmission vender) will have three options:

(i) *Monthly distributor fee with subscriber fees:* Organizations will, at least, pay a distributor fee of $2,000/month. They will receive 10 free subscriber licenses. Subsequent subscriber licenses will cost $1/month for non-professionals and $10/month for professionals.

(ii) *Monthly Enterprise License:* Organizations may choose to pay an enterprise license of $4,000/month. The enterprise license will include the distributor fee and unlimited subscriber fees.

(iii) *Annual Enterprise License:* Organizations that choose to sign on to receive the service for at least 12 months will pay an enterprise license of $36,000/year. The annual enterprise license will include the distributor fee and unlimited subscriber fees.

For the new data products, Nasdaq will not distinguish between direct and indirect distributors or internal and external distributors as it does with its established data products. The decision not to distinguish firm types was made to encourage firms to maximize adoption of the new, unproven data products without consideration for how it is received and to whom it is provided.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with section 15A of the Act,[5] in general, and furthers the objectives of section 15A(b)(6) of the Act,[6] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, remove impediments to a free and open market and a national market system, and, in

[5] 15 U.S.C. 78*o*–3.

[6] 15 U.S.C. 78*o*–3(b)(6).

general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act[7] and Rule 19b 4(f)(6) thereunder.[8]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASD–2006–056 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–NASD–2006–056. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of NASD.

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 the File Number SR–NASD–2006–056 and should be submitted on or before July 14, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Nancy M. Morris,

Secretary.

[FR Doc. E6–9929 Filed 6–22–06; 8:45 am]

BILLING CODE 8010–01–P

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54002; File No. SR–NASD–2006–072]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. To Modify the Fees for Trading and Compliance Data and the Data Package Available to NASD Member Firms via NasdaqTrader.com

June 16, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 5, 2006, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. Pursuant to section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] Nasdaq has designated this proposal as establishing or changing a due, fee, or other charge, which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

Nasdaq proposes to modify the fees for trading and compliance data available to NASD member firms via NasdaqTrader.com, as well as to update the information that the Nasdaq Trading and Compliance Data Package ("Data Package") includes.[5] Nasdaq will implement the new fees on July 1, 2006.

The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.[6]

Rule 7010. System Services

(a)–(m) No Change

(n) NasdaqTrader.com Trading and Compliance Data Package Fee

The charge to be paid by an NASD Member Firm for each entitled user receiving Nasdaq Trading and Compliance Data Package via NasdaqTrader.com is *$130* [$100] per month (monthly maximum of 25

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] March 31, 2005 was the last day that customers had access to the Daily Share Volume Report. Nasdaq notified customers via email on March 14, 2005, and posted a notice simultaneously on the NasdaqTrader.com Web site, regarding the removal of the Daily Share Volume Report from the Data Package. In addition to having no customer demand for the Daily Share Volume Report, Nasdaq received no complaints nor any customer inquiries before or after its removal from the Data Package. E-mail from Jonathan F. Cayne, Associate General Counsel, Nasdaq, to Joseph Morra, Special Counsel, Commission, dated June 14, 2006. The Commission notes that Nasdaq should have filed a proposed rule change at the time it decided to remove the Daily Share Volume Report from the Data Package.

[6] Changes are marked to the rule text that appears in the electronic NASD Manual found at *http://www.nasd.com*. Prior to the date when The NASDAQ Stock Market LLC ("NASDAQ LLC") commences operations, NASDAQ LLC will file a conforming change to the rules of NASDAQ LLC approved in Securities Exchange Act Release No. 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10–131).

Historical Research Reports) or *$160* [$130] per month (monthly maximum of 100 Historical Research Reports). The Nasdaq Trading and Compliance Data Package includes:

[(1) Daily Share Volume Report for a Broker/Dealer (Member Firm's information only)]

(1) [(2)] Monthly Compliance Report Cards (Member Firm's information only).

(2) [(3)] Monthly Summaries.

(3) [(4)] Historical Research Reports.

[(i) Market Maker Price Movement Report].

[(ii) Equity Trade Journal (Member Firm's information only)].

The Association may modify the contents of the Nasdaq Trading and Compliance Data Package from time to time based on subscriber interest.

(o)–(w) No Change

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II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq 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. Nasdaq 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

Nasdaq proposes to modify the fees for trading and compliance data available to NASD member firms via NasdaqTrader.com, as well as to update the information that is included in the Data Package. NasdaqTrader.com allows NASD member firms to obtain data regarding their own trading volume in securities in which they report volume, as well as information concerning their compliance with NASD rules.

Specifically, NASD member firms that subscribe to the Data Package can obtain the following reports: (1) Monthly Compliance Report Cards, which outline the firm's own compliance with various NASD rules; (2) Monthly Summaries, which provide monthly trading volume statistics for the top 50 market participants broken down by industry sector, security or type of trading; and (3) Historical Research Reports, which provide a variety of historical trading data such as a market maker's quote updates for a security on a specified date. Due to the lack of customer demand, Nasdaq removed the Daily Share Volume Report from the Data Package in March 2005.[7]

Use of this service is voluntary and NASD member firms have the option of subscribing to two different levels of the Data Package. The "basic" level, which currently has a fee of $100 per month, allows access to a maximum of 25 Historical Research Reports per month. The "premium" level, which currently has a fee of $130 per month, allows access to a maximum of 100 Historical Research Reports per month. These fees have not increased since October 2003, even though several enhancements have been made since that time. Some of these enhancements include: (1) New OATS Compliance Report Cards; and (2) new historical research reports (*e.g.*, Time and Sales with Inside Quotes and NASDAQ Market Center Activity Reports for Other Exchange-Listed Securities).

In order to help cover the costs associated with the maintenance of the Data Package service, as well as the implementation of additional enhancements to the service in the near future, Nasdaq proposes to increase the subscription fee for the service. Specifically, Nasdaq proposes to increase the subscription fee for the "basic" level from $100 to $130 per month, and increase the fee for the "premium" level from $130 to $160 per month. These fee increases will commence on July 1, 2006.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,[8] in general and with section 15A(b)(5) of the Act,[9] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls. Specifically, use of the Data Package service is voluntary and the subscription fees will be imposed on all member firms equally based on the level of service selected. In addition, the increase in fees will help cover the costs associated with maintaining and enhancing the Data Package service.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act[10] and subparagraph (f)(2) of Rule 19b–4 thereunder,[11] because it establishes or changes a member due, fee, or other charge imposed by NASD. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASD–2006–072 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 NASD–2006–072. 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

[7] *See* footnote 5 *supra*.

[8] 15 U.S.C. 78*o*–3.

[9] 15 U.S.C. 78*o*–3(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 240.19b–4(f)(2).

post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal offices of NASD. 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 NASD–2006–072 and should be submitted on or before July 14, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Nancy M. Morris,

Secretary.

[FR Doc. E6–9936 Filed 6–22–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54005; File No. SR–NASD–2006–030]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change and Amendment No. 1 Thereto To Establish an Annual Administrative Fee for Market Data Distributors That Are Recipients of Nasdaq Proprietary Data Products

June 16, 2006.

On February 27, 2006, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to establish an annual administrative fee for market data distributors that are recipients of Nasdaq proprietary data products. Nasdaq filed Amendment No. 1 to the proposed rule change on April 17, 2006. The proposed rule change, as modified by Amendment No. 1, was published for notice and comment in the **Federal Register** on May 12, 2006.[3] The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

The Commission finds that the proposed rule change is consistent with Section 15A of the Act[4] and the rules and regulations thereunder. Specifically, the Commission finds the proposal to be consistent with Section 15A(b)(5) of the Act,[5] in that it provides for the equitable allocation of reasonable fees among persons distributing and purchasing Nasdaq proprietary data products. The Commission believes the fees are reasonably tailored to allow Nasdaq to recover the fixed market data administrative costs, as well as the costs of maintaining and improving the administrative tools distributors use to subscribe to and monitor their data products usage.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[6] that the proposed rule change (SR–NASD–2006–030), be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Nancy M. Morris,

Secretary.

[FR Doc. E6–9938 Filed 6–22–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53995; File No. SR–NYSEArca–2006–13]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change and Amendments No. 1 and 2 Thereto Establishing the OX Trading Platform

June 15, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 2, 2006, NYSE Arca, Inc. ("NYSE Arca" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange filed Amendments No. 1[3] and 2[4] to the proposed rule change on June 6, 2006 and June 15, 2006, respectively. The Commission is publishing this notice, as amended, 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

NYSE Arca proposes to amend its rules governing the trading of listed options on NYSE Arca. With this filing, the Exchange proposes to adopt new rules for the implementation of a new trading platform for options, OX.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.archipelago.com*, at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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

A. Summary and Purpose of the Rule Changes Related to the Implementation of OX

NYSE Arca proposes to establish rules for OX, a fully automated trading system for standardized equity options intended to replace NYSE Arca's current options trading platform, PCX Plus.[5] OX

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[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 53770 (May 8, 2006), 71 FR 27762.

[4] 15 U.S.C. 78*o*–3.

[5] 15 U.S.C. 78*o*–3(b)(5).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1, which replaced and superseded the original filing in its entirety, is incorporated in this notice.

[4] Amendment No. 2 clarified the circumstances under which orders received by OX would be routed away using Linkage or Archipelago Securities. Amendment No. 2 also made minor changes to the proposed rule text. Amendment No. 2 is incorporated in this notice.

[5] *See* NYSE Arca Rule 6.90.

would provide automatic order execution capabilities in the options securities listed and traded on NYSE Arca. Market Makers would be able to stream quotes to OX from on the trading floor or remotely.

1. *Description of OX*

a. *Access.* OX would be available for the entry and execution of quotes and orders to OTP Holders,[6] OTP Firms[7] and, through Sponsoring OTP Firms,[8] certain non-OTP Firms and Holders, such as institutional investors (collectively, "Users").

b. *Method of Operation.* In general, Users would be able to enter market orders, marketable limit orders and limit orders. Only Market Makers would be permitted to enter quotes on OX. As Users enter bids and offers (*i.e.*, orders and quotes) into the system, any non-marketable limit orders and quotes would be ranked in an electronic limit order file (the "OX Book") according to price-time priority, such that within each price level, all bids and offers are organized by the time of entry. The OX Book (except for certain working orders with conditional prices or sizes) would be displayed to all Users. For market orders or marketable limit orders, like-priced bids and offers would be matched by OX for execution at prices equal to or better than the NBBO pursuant to the following algorithm, which is based on price-time priority:

Step 1: All market orders and marketable limit orders would be matched against the displayed top of the OX Book.

Step 2: If an order has not been executed in its entirety pursuant to Step 1, then OX would match the order against any working orders, which are orders with a conditional or undisplayed price and/or size. For example, a reserve order, an order with a portion of the size displayed and reserve portion of the size that is not displayed, is a working order.

Step 3: If an order has not been executed in its entirety pursuant to Steps 1 and 2, the order would be routed to another Market Center[9] for execution, unless the User has indicated that the order must not be routed to another market (*i.e.*, by designating an order as a "post no preference" or "PNP" order). If an order that is routed to another market is not executed in its entirety, the order would be ranked and displayed in the OX Book in accordance with the terms of such order pursuant to proposed NYSE Arca Rule 6.76A and such order would be eligible for execution pursuant to proposed NYSE Arca Rule 6.76B.

2. *Market Maker Participation.* OTP Holders and OTP Firms would be permitted to register as either Lead Market Makers ("LMMs") or Market Makers in one or more securities traded on OX (unless specified, or unless the context requires otherwise, the term Market Maker as used herein refers to both Market Makers and LMMs). No more than one LMM would be appointed in each option class. If registered as Market Makers, the transactions of such OTP Firms and OTP Holders "should constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and no Market Maker should enter into transactions or make bids or offers that are inconsistent with such a course of dealings." Specifically, a Market Maker would be required to, among other things, compete with other Market Makers to improve the market in all series of options classes to which the Market Maker is appointed, update market quotations in response to changed market conditions in all series of options classes within its appointed classes, honor its quotations, maintain continuous, two-sided quotes in a specified percentage of its appointed classes, submit quotations in accordance with maximum Exchange prescribed width requirements, and trade a minimum percentage of its contracts in its appointed classes. A Market Maker's failure to meet these obligations may lead to a suspension, termination or other restriction of the Market Maker's registration in one or more securities or the OTP Firm's or OTP Holder's right to act as a Market Maker. LMMs would continue to be responsible for Intermarket Option Linkage ("Linkage") order handling obligations.

B. Detailed Summary of Proposed Rule Change

The proposed rule changes are located in NYSE Arca Rule 2 (Options Trading Permits) and NYSE Arca Rule 6 (Options Trading).

1. *NYSE Arca Rule 2—Options Trading Permits.*

Proposed amendment to NYSE Arca Rule 2.5. Because NYSE Arca does not intend to make significant changes to membership requirements once OX is implemented, NYSE Arca proposes to amend NYSE Arca Rule 2.5 such that current members of the Exchange and their associated persons that have met the Exchange's membership requirements and passed the requisite examinations would automatically be qualified to engage in the same activities on OX for which they were previously approved by the Exchange.

2. *NYSE Arca Rule 6—Options Trading.*

Proposed amendments to NYSE Arca Rule 6.1(a). Because option issues would be rolled-out on OX over a period of time, NYSE Arca proposes to amend NYSE Arca Rule 6.1(a) to clarify that rules related to option contracts traded on the existing PCX Plus trading platform would apply to options trading on PCX Plus and proposed new rules for option contracts that would trade on OX would apply only to such transactions. Existing and amended rules that do not specify a trading platform would apply to all relevant transactions made on NYSE Arca.

Proposed NYSE Arca Rule 6.1A

In connection with the implementation of OX, NYSE Arca proposes to adopt definitions applicable to activity on OX. The most significant of the proposed definitions are as follows:

a. *Proposed NYSE Arca Rule 6.1A(a)(10).* NOW Recipients. As described further below, NYSE Arca proposes to add "NOW Order" as a new order type. Users would be permitted to designate orders entered on OX as "NOW Orders." NOW Orders are limit orders that would be executed in whole or in part on OX. Any portion of such orders not executed on OX would be routed to one or more "NOW Recipients" for immediate execution. "NOW Recipients" would include any Market Center (1) with which NYSE Arca maintains an electronic linkage, and (2) that provides instantaneous responses to NOW Orders routed from OX. NYSE Arca would designate those Market Centers that qualify as NOW Recipients and periodically publish such information via its Web site. Any portion of a NOW Order not immediately executed by the NOW Recipient would be cancelled. If a NOW Order is not marketable when it is submitted to OX, it would be cancelled.

NOW Orders would allow Users to have their orders executed as quickly as possible by allowing them to choose to have their orders sent only to those Market Centers that are automated, as that term is generally understood to mean, and that do not allow for manual intervention. Through the creation of "NOW Recipients" and "NOW Orders," Users' orders that are routed away would be executed as quickly as possible while the possibility that such orders would "miss" the away market would be reduced.

[6] *See* NYSE Arca Rule 1.1(q).

[7] *See* NYSE Arca Rule 1.1(r).

[8] *See* proposed NYSE Arca Rule 6.1A(a)(17).

[9] *See* proposed NYSE Arca Rule 6.1A(a)(6).

b. *Proposed NYSE Arca Rule 6.1A(a)(15).* OX Routing Broker.

NYSE Arca is proposing to add a definition for "OX Routing Broker," NYSE Arca's broker-dealer affiliate, Archipelago Securities LLC ("Archipelago Securities"), which NYSE Arca intends to use to route orders, subject to NYSE Arca rules, to other Market Centers. The OX Routing Broker would offer Users a fast alternative for routing orders to other Market Centers for execution.

Archipelago Securities is a wholly-owned subsidiary of Archipelago Holdings Inc. and is a registered broker-dealer and a member of NASD. Archipelago Securities is a "facility" of NYSE Arca as that term is defined in Section 3(a)(2) of Act.[10] Specifically, Section 3(a)(2) of the Act provides that, "[t]he term 'facility' when used with respect to an exchange includes its premises, tangible or intangible property whether on the premises or not, any right to use of such premises or property or any service thereof for the purpose of effecting or reporting a transaction on the exchange (including, among other things, any system of communication to or from the exchange, by ticket or otherwise maintained by or with the consent of the exchange), and any right of the exchange to the use of any property or service." Accordingly, because Archipelago Securities functions as an order routing mechanism for NYSE Arca, it operates as a "system of communication" to and from NYSE Arca for purposes of effecting transactions on NYSE Arca. NYSE Arca would be responsible for regulating the OX order routing function of Archipelago Securities as an exchange facility, subject to Section 6 of the Act.[11] Archipelago Securities' order routing function would also be subject to the Commission's continuing oversight. In particular, under the Act, any proposed rule change relating to Archipelago Securities' order-routing function would be filed with the Commission and Archipelago Securities would be subject to exchange non-discrimination requirements.

OX would use either Archipelago Securities or Linkage to route orders to other Market Centers. Generally, non-customer orders (*e.g.*, broker-dealer orders and Market Maker orders) and NOW Orders would be routed to other Market Centers via Archipelago Securities. P/A orders[12] would be routed to other Market Centers via Linkage. The OX system would not automatically generate Principal orders[13] on behalf of Market Makers; rather, Market Makers would be required to enter their own Principal orders if they want to have their proprietary orders routed to other Market Centers via Linkage. Certain order types, including Immediate or Cancel and PNP Orders, would not be eligible for routing away. Users, therefore, would be able to control whether certain orders may be routed away by these order designations.

OX would determine whether to route certain orders via Linkage or Archipelago Securities based on preset parameters in its automated routing algorithm. Accordingly, orders that would be eligible for routing over Linkage (*e.g.*, public customer orders) could be routed to other Market Centers as P/A orders via Linkage or as customer orders via Archipelago Securities based on the automated routing algorithm parameters.

c. *Proposed NYSE Arca Rules 6.1A(a)(16), (17) and (18).*

Sponsored Participant, Sponsoring OTP Firm and Sponsorship Provisions. As described further below, NYSE Arca is proposing to add the concept of Sponsored Participants and Sponsoring OTP Firms. Sponsored Participants would be able to access OX for purposes of order entry and execution.

Proposed NYSE Arca Rule 6.2A

NYSE Arca is proposing NYSE Arca Rule 6.2A to govern access to OX and the expected conduct of OTP Holders, OTP Firms and persons employed by or associated with an OTP Holder or OTP Firm. OTP Holders, OTP Firms and persons employed by or associated with any OTP Holder or OTP Firm, while using the facilities of NYSE Arca, would not be permitted to engage in conduct: (i) Inconsistent with the maintenance of a fair and orderly market; (ii) apt to impair public confidence in the operations of NYSE Arca; or (iii) inconsistent with the ordinary and efficient conduct of business. Activities that may violate these provisions would include, but would not be limited to: (a) Failure of a Market Maker to provide quotations in accordance with NYSE Arca Rules 6.37A and 6.37B; (b) failure of a Market Maker to bid or offer within the ranges specified by NYSE Arca Rule 6.37A; (c) failure of an OTP Holder or OTP Firm to adequately supervise a person employed by or associated with such OTP Holder or OTP Firm to ensure that person's compliance with NYSE Arca Rules; (d) failure to abide by a determination of NYSE Arca; and (e) refusal to provide information requested by NYSE Arca.

In addition to the above, proposed NYSE Arca Rule 6.2A also outlines the requirements that Sponsored Participants and Sponsoring OTP Firms would be required to meet prior to engaging in a Sponsoring OTP Firm/Sponsored Participant relationship. A "Sponsored Participant" would be a person, such as an institutional investor, who has entered into a sponsorship arrangement with an OTP Firm for purposes of entering orders on OX. The following would be the requirements for access by Sponsored Participants:

Sponsored Participants would be required to enter into a sponsorship arrangement with a "Sponsoring OTP Firm," which is defined as an OTP Firm that has been designated by a Sponsored Participant to execute, clear and settle transactions on NYSE Arca. The sponsorship arrangement consists of three separate components. First, the Sponsored Participant would have to enter into and maintain a customer agreement with its Sponsoring OTP Firm, establishing a proper relationship and account through which the Sponsored Participant would be permitted to trade on NYSE Arca. Second, the Sponsored Participant and its Sponsoring OTP Firm would have to enter into a written agreement that incorporates the following Sponsorship Provisions:

(1) The Sponsoring OTP Firm acknowledges and agrees that: (i) All orders entered by its Sponsored Participant and any person acting on behalf of or in the name of such Sponsored Participant and any executions occurring as a result of such orders are binding in all respects on the Sponsoring OTP Firm and (ii) the Sponsoring OTP Firm is responsible for any and all actions taken by such Sponsored Participant and any person acting on behalf of or in the name of such Sponsored Participant.

(2) The Sponsored Participant agrees that it would comply with the NYSE Arca Certificate of Incorporation, Bylaws, Rules and procedures with regard to its activity on the Exchange as if the Sponsored Participant were an OTP Firm.

(3) The Sponsored Participant agrees that it would maintain, keep current and provide to the Sponsoring OTP Firm a list of its Authorized Traders[14] who would be permitted to obtain access to the Exchange on behalf of the Sponsored Participant(s).

(4) The Sponsored Participant agrees that it would familiarize its Authorized

[10] 15 U.S.C. 78c(a)(2).

[11] 15 U.S.C. 78f.

[12] *See* NYSE Arca Rule 6.92(a)(12)(i).

[13] *See* NYSE Arca Rule 6.92(a)(12)(ii).

[14] *See* proposed NYSE Arca Rule 6.1A(a)(1).

Traders with all of the Sponsored Participant's obligations under NYSE Arca Rules and would assure that they receive appropriate training prior to any use of or access to the Exchange.

(5) The Sponsored Participant agrees that it would not permit anyone other than Authorized Traders to use or obtain access to the Exchange.

(6) The Sponsored Participant agrees that it would take reasonable security precautions to prevent unauthorized use or access to the Exchange, including unauthorized entry of information into OX, or the information and data made available therein. The Sponsored Participant understands and agrees that it is responsible for any and all orders, trades and other messages and instructions entered, transmitted or received under identifiers, passwords and security codes of Authorized Traders, and for the trading and other consequences thereof.

(7) The Sponsored Participant acknowledges its responsibility for establishing adequate procedures and controls that permit it to effectively monitor its employees, agents and customers' use of and access to the Exchange for compliance with the terms of the Sponsorship Provisions.

(8) The Sponsored Participant agrees that it would pay when due all amounts, if any, payable to the Sponsoring OTP Firm, NYSE Arca or any other third parties that arise from the Sponsored Participant's access to and use of the Exchange. Such amounts would include, but would not be limited to, applicable exchange and regulatory fees.

Third, the Sponsoring OTP Firm would have to provide NYSE Arca with a "Notice of Consent," which acknowledges the Sponsoring OTP Firm's responsibility for the orders, executions and actions of its Sponsored Participant.

As a further condition to access to the Exchange, each OTP Firm would be required to maintain an up-to-date list of persons who could obtain access to the Exchange on behalf of the OTP Firm or the OTP Firm's Sponsored Participants, *i.e.*, Authorized Traders, and provide the list to NYSE Arca upon request. In addition, each OTP Firm would have to have reasonable procedures to ensure that all of its Authorized Traders maintain the physical security of NYSE Arca and otherwise comply with NYSE Arca Rules. If NYSE Arca determines that an Authorized Trader has caused an OTP Firm to violate NYSE Arca Rules, NYSE Arca could direct the OTP Firm to suspend or withdraw the person's status as an Authorized Trader.

The Sponsoring OTP Firm/Sponsored Participant relationship would allow a member firm to grant access to NYSE Arca to their customers while confirming that those customers who do have access to NYSE Arca have appropriate procedures in place to comply with NYSE Arca rules. Furthermore, the identity of all individuals with access (*i.e.*, Authorized Traders) would have to be disclosed to the Exchange, giving the Exchange better information in the event that the Exchange determines to take action because its systems have been used inappropriately.

Proposed NYSE Arca Rule 6.32A. Proposed NYSE Arca Rule 6.32A defines "Market Maker" on the OX platform. A Market Maker on OX would be an OTP Holder or OTP Firm registered with NYSE Arca for the purpose of submitting quotes electronically and making transactions as a dealer-specialist through the OX trading platform from on the trading floor or remotely from off the trading floor. A Market Maker submitting quotes remotely is not eligible to participate in trades effected in open outcry except to the extent that such Market Maker's quotation represents the best bid or offer on the Exchange ("BBO"). Market Makers would be designated as specialists on NYSE Arca for all purposes under the Act and the Rules and Regulations thereunder. A Market Maker on NYSE Arca would be either a Market Maker or an LMM. Unless specified, or unless the context requires otherwise, the term Market Maker in the NYSE Arca Rules refers to both Market Makers and LMMs.

Proposed NYSE Arca Rule 6.32A does not contain the same restrictions outlined in the current NYSE Arca Rule 6.32. NYSE Arca proposes to make NYSE Arca Rule 6.32 applicable to classes that would continue to trade only on PCX Plus because current NYSE Arca Rule 6.32 outlines the different types of market makers presently on the Exchange and certain restrictions and limitations applicable to such market makers. Proposed NYSE Arca Rule 6.32A clarifies that there would be only two types of Market Makers on OX (*i.e.*, LMMs and Market Makers) and that Market Makers would be permitted to stream quotes from on or off of the trading floor. Accordingly, proposed NYSE Arca Rule 6.32A does not direct where Market Makers have to be physically located when effecting transaction on NYSE Arca and eliminates "in-person" trading requirements applicable to market makers that trade on the floor.

Proposed NYSE Arca Rule 6.34A. NYSE Arca is proposing NYSE Arca Rule 6.34A to limit Market Maker access to OX to those OTP Holders or officers, partners, employees or associated persons of OTP Firms that are registered with NYSE Arca as Market Makers ("Market Maker Authorized Traders" or "MMATs"). Persons would be required to pass an NYSE Arca conducted examination to demonstrate their knowledge of NYSE Arca rules prior to being approved by NYSE Arca as an MMAT. NYSE Arca also would be permitted to require a Market Maker to provide additional information NYSE Arca considers necessary to establish whether a person should be approved as an MMAT. A person would be permitted to be approved conditionally as an MMAT subject to any conditions NYSE Arca's Chief Regulatory Officer considers appropriate in the interests of maintaining a fair and orderly market.

NYSE Arca Rule 6.34A would permit NYSE Arca to suspend or withdraw the registration of an MMAT if NYSE Arca determines that: (i) The person has caused the Market Maker to fail to comply with the Rules of NYSE Arca; (ii) the person is not properly performing the responsibilities of an MMAT; (iii) the person has failed to meet the conditions described above (*e.g.*, failed the Exchange-administered examination); or (iv) NYSE Arca believes it is in the best interest of fair and orderly markets. If NYSE Arca suspends the registration of a person as an MMAT, the Market Maker must not allow the person to submit quotes and orders on OX. The registration of an MMAT also would be withdrawn upon the written request of the OTP Firm for which the MMAT is registered. Such written request must be submitted on the form prescribed by NYSE Arca.

Proposed NYSE Arca Rule 6.34A would allow the Exchange to know the identities of individuals accessing NYSE Arca on behalf of Market Makers and performing the functions of Market Makers. Proposed NYSE Arca Rule 6.34A also would allow the Exchange, through the Exchange's examination process, to confirm that MMATs have sufficient knowledge of Exchange rules prior to their acting as MMATs on the Exchange. Furthermore, Proposed NYSE Arca Rule 6.34A would permit the Exchange to take prompt action against MMATs who are not compliant with Exchange Rules or who are not properly performing the functions of a Market Maker thereby limiting any negative consequences of such actions.

Proposed amendment to NYSE Arca Rule 6.35. NYSE Arca is proposing changes to the manner in which Market

Maker appointments are made. Consistent with current NYSE Arca Rule 6.35, Market Makers would be required to apply for an appointment in one or more options classes. NYSE Arca may appoint one LMM per option class and an unlimited number of Market Makers in each class unless NYSE Arca determines that the number of Market Makers appointed to a particular option class should be limited whenever, in NYSE Arca's judgment, system capacity limits the number of Market Makers who would be permitted to participate in a particular option class. However, NYSE Arca would not limit access to Market Makers until such time as it has submitted to the Commission for its review and approval objective criteria for limiting access to Market Makers.

NYSE Arca is proposing to increase the number of classes per OTP that a Market Maker would be permitted to select for its appointment as follows: (i) Market Makers with one OTP would have up to 100 option issues included in their appointment; (ii) Market Makers with two OTPs would have up to 250 option issues included in their appointment; (iii) Market Makers with three OTPs would have up to 750 option issues included in their appointment; and (iv) Market Makers with four OTPs would have all option issues traded on NYSE Arca included in their appointment. Market Makers would be permitted to select from among any option issues traded on NYSE Arca for inclusion in their appointment, subject to the approval of NYSE Arca.

NYSE Arca would continue to consider the following factors when determining whether to approve the appointment of a Market Maker in each security: (i) The Market Maker's preference; (ii) the financial resources available to the Market Maker; (iii) the Market Maker's experience, expertise and past performance in making markets, including the Market Maker's performance in other securities; (iv) the Market Maker's operational capability; and (v) the maintenance and enhancement of competition among Market Makers in each security in which they are appointed.

Consistent with current NYSE Arca Rule 6.35, Market Makers would be permitted to change the option issues that are included in their appointment, subject to the approval of NYSE Arca and provided that such request is made in a form and manner prescribed by NYSE Arca. In considering whether to approve Market Makers' request to change their appointment, NYSE Arca would consider the five factors set forth directly above. Market Makers would be permitted to withdraw from trading an option issue that is within their appointment by providing NYSE Arca with three business days' written notice of such withdrawal. Market Makers who fail to give advance written notice of withdrawal to NYSE Arca may be subject to formal disciplinary action pursuant to NYSE Arca Rule 10.

Also consistent with current NYSE Arca Rule 6.35, NYSE Arca would be permitted to suspend or terminate any appointment of a Market Maker in one or more option issues under amended NYSE Arca Rule 6.35 whenever, in NYSE Arca's judgment, the interests of a fair and orderly market are best served by such action. A Market Maker would be able to seek review of any action taken by NYSE Arca pursuant to the proposed rule, including the denial of the appointment for, or the termination or suspension of, a Market Maker's appointment in an option issue or issues in accordance with NYSE Arca Rule 10.

Market Makers would continue to be required to trade at least 75% of their contract volume per quarter in classes within their appointment. However, NYSE Arca is proposing to exclude from this calculation trades effected on the Trading Floor to accommodate cross trades executed pursuant to NYSE Arca Rule 6.47, regardless of whether the trades are in issues within or without a Market Maker's appointment.

NYSE Arca periodically would conduct an evaluation of Market Makers to determine whether they have fulfilled performance standards relating to, among other things, quality of markets, competition among Market Makers, observance of ethical standards and administrative factors. In so doing, NYSE Arca would be permitted to consider any relevant information including, but not limited to, the results of a Market Maker evaluation, trading data, a Market Maker's regulatory history and such other factors and data as may be pertinent in the circumstances. If NYSE Arca finds any failure by a Market Maker to meet minimum performance standards, NYSE Arca would be permitted to take the following actions after written notice and after opportunity for hearing pursuant to NYSE Arca Rule 10: (i) Restrict appointments to additional option issues in the Market Maker's primary appointment; (ii) suspend, terminate or restrict an appointment in one or more option issues; or (iii) suspension, termination, or restriction of the Market Maker's registration in general. If a Market Maker's appointment in an option issue or issues has been terminated because it failed to meet minimum performance standards, the Market Maker would not be re-appointed as a Market Maker in that option issue or issues for a period not to exceed six months.

Proposed NYSE Arca Rule 6.37A. NYSE Arca is proposing new NYSE Arca Rule 6.37A to outline Market Maker obligations (i) Generally, (ii) within a Market Maker's appointed classes, and (iii) outside of a Market Maker's appointed classes on OX. Proposed rule 6.37A generally is consistent with certain existing requirements contained in NYSE Arca Rule 6.37 (*e.g.*, obligations within and outside of a Market Makers appointment, establishment of quotation width limitations). However, because there only would be two types of Market Makers on OX, proposed NYSE Arca Rule 6.37A eliminates requirements relevant to Remote Market Makers and Supplemental Market Makers and eliminates in person trading requirements because Market Makers would be permitted to choose the physical location from which they would submit quotes to OX. Furthermore, NYSE Arca is proposing to address Market Maker quoting obligations separately in proposed NYSE Arca Rule 6.37B.

Proposed NYSE Arca Rule 6.37B. NYSE Arca is proposing new NYSE Arca Rule 6.37B to outline Market Maker quoting obligations on OX. Market Makers would be required to undertake a meaningful obligation to provide continuous two-sided markets in classes traded on OX. Proposed rule 6.37B generally is consistent with existing NYSE Arca Rule 6.37. Under proposed NYSE Arca Rule 6.37B, Market Makers would be permitted to enter quotations only in the classes included in their appointment. Proposed NYSE Arca Rule 6.37B also outlines the percentage of time that Market Makers must quote on the Exchange (*i.e.*, 99% of the time the Exchange is open for trading for LMMs and 60% of the time the Exchange is open for trading for Market Makers). Market Makers quotes would be "firm" for all orders that are routed to OX (*i.e.*, Market Makers would not specify different sizes for Customer orders and non-Customer orders; rather, Market Makers would disseminate one size and would be "firm" for any order type routed to the Exchange).

Proposed NYSE Arca Rule 6.37C. NYSE Arca is proposing new NYSE Arca Rule 6.37C that would allow Market Makers to enter on OX all permitted orders types.

Proposed NYSE Arca Rule 6.40A. NYSE Arca is proposing new NYSE Arca Rule 6.40A to provide a mechanism for limiting Market Maker

risk during periods of increased and significant trading activity on OX in a Market Maker's appointment. Unlike current NYSE Arca Rule 6.40, however, NYSE Arca is proposing to set the "n" period at one second. Pre-setting the "n" period at one second would give NYSE Arca greater control over the functioning of the risk limitation mechanism and would reduce User confusion regarding how much time must pass before the risk limitation mechanism activates.

In the proposed new rule, NYSE Arca also would no longer generate two-sided quotes on behalf of an LMM in the event that there are no Market Makers quoting in an issue. Rather, in the event that there are no Market Makers quoting in the issue, the best bids and offers of those orders residing in the OX Book in the issue would be disseminated as the BBO. If there are no Market Makers quoting in the issue and there are no orders in the OX Book in the issue, OX would disseminate a bid of zero and an offer of zero in that issue.

Under current NYSE Arca Rule 6.40, the Exchange would disseminate a market on behalf of an LMM when there are no Market Makers quoting in a series and the Market Maker risk limitation mechanism is activated. This market is an artificial market generated by the Exchange that is not truly reflective of the LMM's market; however, the market is subject to firm quote requirements and must be honored by the LMM. NYSE Arca is proposing NYSE Arca Rule 6.40A to improve upon its current NYSE Arca Rule 6.40. Specifically, proposed NYSE Arca Rule 6.40A would disseminate a zero bid and zero offer when there are no Market Makers quoting in a series and there are no other bids or offers on the Exchange in the series. The zero bid, zero offer market is a true reflection of the market at that point in time and limits the risk exposure of Exchange Market Makers when necessary and appropriate during times of increased volatility.

Proposed Amendment to NYSE Arca Rule 6.47. NYSE Arca is proposing to amend NYSE Arca Rule 6.47 governing crosses effected on the trading floor. Consistent with the existing version of NYSE Arca Rule 6.47, the proposed amendment provides for (i) Non-facilitation ("Regular Way") crosses, (ii) facilitation crosses and (iii) solicitation crosses. In all cases, orders must be announced to the trading crowd in open outcry and all terms of the orders must be disclosed to the trading crowd. Trading crowd participants would be given a reasonable time to respond with the prices and sizes at which they would be willing to participate in the cross. With respect to all crosses, a Trading Official would be available at each post on the trading floor to assist in the determination of what is a "reasonable time" when necessary. Trading crowd participants who make bids or offers equal to or better than the proposed cross price would be permitted to participate in a cross. With respect to facilitations, floor brokers still would be permitted to participate in up to 40% of the balance of an order to be facilitated, once bids or offers in the Book and non-member bids and offers in the trading crowd at or better than the proposed execution price have been satisfied. The Exchange believes that proposed allocation of contracts to non-members ahead of the facilitating member is consistent with Section 11(a) of the Act.[15] Section 11(a) of the Act prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person or an account over which it or its associated person exercises discretion (collectively, "covered accounts") unless an exception applies. Section 11(a)(1)(G) of the Act and Rule 11a1–1(T) therunder provide an exception to the general prohibition in Section 11(a) on an exchange member effecting transactions for its own account. Specifically, a member that "is primarily engaged in the business of underwriting and distributing securities issued by other persons, selling securities to customers, and acting as broker, or any one or more of such activities, and whose gross income normally is derived principally from such business and related activities" [16] and effects a transaction in compliance with the requirements in Rule 11a1–1(T)(a) may effect a transaction for its own account.[17] Among other things, Rule 11a1–1(T)(a) requires that an exchange member presenting a bid or offer for its own account or the account of another member must grant priority to any bid or offer at the same price for the account of a non-member of the exchange.[18] Because the proposed amendment would require the facilitating member to yield priority in the cross transaction to all non-member bids and offers, the Exchange believes that the proposed amendment is consistent with the requirements of Section 11(a) and Rule 11a1–1(T).

With respect to crossing solicited orders, NYSE Arca proposes to impose a notification requirement on floor brokers so that customers would be aware that a floor broker would be permitted to solicit liquidity to fill the customer's orders. The floor broker would be required to deliver to the customer a written notification informing the customer that its order would be permitted to be executed pursuant to proposed NYSE Arca Rule 6.47(c). Such written notification would have to disclose the terms and conditions contained in proposed NYSE Arca Rule 6.47 and be in a form approved by the Exchange.

NYSE Arca also proposes to add a new category of cross order, the Mid-Point Crossing Order. A Floor Broker who holds orders to buy and sell an option contract(s) at the mid-point between the electronically disseminated BBO in the subject option series would be permitted to cross the Mid-Point Crossing Orders. Once the Mid Point Crossing Orders have been represented in the trading crowd by open outcry, and members of the trading crowd have been given a reasonable time to respond with the prices and sizes at which they would be willing to participate in the execution of the Mid-Point Crossing Orders, the Floor Broker would be permitted to execute the Mid-Point Crossing Orders in accordance with the procedures in proposed NYSE Arca Rule 6.47 for Regular Way, facilitation or solicitation crosses, as applicable.

If a Market Maker is solicited and agrees to participate in a cross order, pursuant to NYSE Arca Rule 6.85, the Market Maker would not be permitted to be present in the trading crowd when such order is represented and executed.

Proposed NYSE Arca Rule 6.62A

In addition to certain existing order types (*e.g.*, Limit Orders, Market Orders), NYSE Arca is proposing to add several new order types available for entry on OX. These would include the following:

a. *Proposed NYSE Arca Rule 6.62A(c).* Inside Limit Order. An "Inside Limit Order" is a Limit Order, which, if routed away pursuant to NYSE Arca Rule 6.76B, would be routed to the

[15] 15 U.S.C. 78k(a).

[16] 15 U.S.C. 78k(a)(1)(G)(i). Paragraph (b) of Rule 11a1–1(T) under the Act provides that the requirements of Section 11(a)(1)(G)(i) of the Act apply if during its preceding fiscal year more than 50% of its gross revenues were derived from one or more of the sources specified in that section. *See* 17 CFR 240.11a1–1(T).

In addition to any revenue that independently meets the requirements of Section 11(a)(1)(G)(i), revenue derived from any transaction specified in paragraph (A), (B), or (D) of Section 11(a)(1) of the Act or specified in Rule 11a1–4(T) will be deemed to be revenue derived from one or more of the sources specified in Section 11(a)(1)(G)(i). *See* 17 CFR 240.11a1–4(T).

[17] 15 U.S.C. 78k(a)(1)(G)(ii).

[18] 17 CFR 240.11a1–1(T)(a)(3).

market participant or participants with the best displayed price. Any unfilled portion of the order would not be routed to the next best price level until all quotes at the current best bid or offer are exhausted. If the order is no longer marketable it would be ranked in the OX Book pursuant to NYSE Arca Rule 6.76A.

b. *Proposed NYSE Arca Rule 6.62A(e).* Working Order. Working Orders consist of several existing order types (*i.e.*, All-or-None Orders, Stop Order) as well as several new order types (*i.e.*, Reserve Orders, Stock Contingency Orders). Working orders are maintained in the OX Book Working Order Process, are not disseminated on OX and are executed in accordance with NYSE Arca Rule 6.76B. A Working Order is any order that has a conditional or undisplayed price and/or size designated as a "Working Order" by NYSE Arca, including, without limitation:

(1) Reserve Order. A limit order with a portion of the size displayed and with a reserve portion of the size ("reserve size") that is not displayed on OX.

(2) All-or-None Order ("AON Order"). A Market or Limit Order that is to be executed in its entirety or not at all.

(3) Stop Order. A Stop Order is an order that becomes a Market Order when the market for a particular option contract reaches a specified price. A Stop Order to buy becomes a Market Order when the option contract trades at or above the stop price on OX or another Market Center or when the OX bid is quoted at or above the stop price. A Stop Order to sell becomes a Market Order when the option contract trades at or below the stop price on OX or another Market Center or when the OX offer is quoted at or below the stop price. Stop Orders (including Stop Limit Orders) would not have standing in any order process in the OX Book and would not be permitted to be displayed.

(4) Stop Limit Order. A Stop Limit Order is an order that becomes a Limit Order when the market for a particular option contract reaches a specified price. A Stop Limit Order to buy becomes a Limit Order when the option contract trades at or above the stop price on OX or another Market Center or when the OX bid is quoted at or above the stop price. A Stop Limit Order to sell becomes a Limit Order when the option contract trades at or below the stop price on OX or another Market Center or when the OX offer is quoted at or below the stop price.

(5) Stock Contingency Order. A Stock Contingency Order is an option order the execution of which is contingent upon the last sale price as specified by the User of the underlying stock traded at the primary marketplace.

c. *Proposed NYSE Arca Rule 6.62A(i).* NOW Order. A "NOW Order" is a Limit Order that is to be executed in whole or in part on OX, and the portion not so executed would be routed pursuant to NYSE Arca Rule 6.76B only to one or more NOW Recipients for immediate execution as soon as the order is received by the NOW Recipient. Any portion not immediately executed by the NOW Recipient would be cancelled. If a NOW Order is not marketable when it is submitted to OX, it would be cancelled. As described above, NOW Recipients are those Market Centers that are automated and do not allow for manual intervention with respect to orders.

d. *Proposed NYSE Arca Rule 6.62A(j).* PNP Order. A "PNP Order" (Post No Preference) is a Limit Order to buy or sell that is to be executed in whole or in part on NYSE Arca, and the portion not so executed is to be ranked in the OX Book, without routing any portion of the order to another Market Center; provided, however, NYSE Arca would be required to cancel a PNP Order that would lock or cross the NBBO.

e. *NYSE Arca Rule 6.62A(k).* Mid-Point Crossing Order. A "Mid-Point Crossing Order" is an order to be crossed at the mid-point price or better of the electronically disseminated BBO [19] in the relevant option series pursuant to NYSE Arca Rule 6.47; provided, however, that the mid-point must fall on a minimum price variation ("MPV").[20] If the mid-point does not fall on an MPV, the Mid-Point Crossing Order would be cancelled.

The order types in Proposed NYSE Arca Rule 6.62A would provide greater flexibility to customers to control their orders. By offering order types such as the Reserve Order, customers would be able to determine how much of their order they want disseminated at any point in time and eliminates the need for customers to enter multiple orders in one series. Furthermore, NOW Orders and PNP Orders provide customers with flexibility with respect to where their orders would (or would not) be routed once they have been processed on the Exchange.

Proposed NYSE Arca Rule 6.64A

NYSE Arca is proposing new NYSE Arca Rule 6.64A to govern the opening process, which traditionally has been referred to as a "rotation," and which would be referred to as an "auction" on the OX platform. A "Trading Auction" is a process by which trading is initiated in a specified options class. Trading Auctions may be employed at the opening of NYSE Arca each business day or to re-open trading after a trading halt. Trading Auctions would be conducted automatically by the OX trading platform.

The OX system would accept Market and Limit Orders and quotes for inclusion in the opening auction process ("Auction Process") until the Auction Process is initiated in that option series. Prior to the Auction Process ("pre-opening"), non-Market Makers would be able to submit orders to OX and Market Makers would be able to submit two-sided quotes and orders to OX. Contingency orders (except for "opening only" orders) would not participate in the Auction Process. Any eligible open orders residing in the OX Book from the previous trading session would be included in the Auction Process. After the primary market for the underlying security disseminates the opening trade or the opening quote, the related option series would be opened automatically based on the following principles and procedures:

a. The OX system would determine a single price at which a particular option series would be opened.

b. Orders would have priority over Market Maker quotes. Orders and quotes in the OX system would be matched up with one another based on price-time priority.

c. Orders in the OX Book that were not executed during the Auction Process would become eligible for the Core Trading Session immediately after the conclusion of the Auction Process.

To determine the opening price in a series, upon receipt of the first consolidated quote or trade of the underlying security, OX would compare the Options Price Reporting Authority ("OPRA") NBBO market with the initial BBO market. OX would generate an opening trade if possible or open a series on the quoted market. OX then would send the OX BBO quote to OPRA.

The opening price of a series would be the price, as determined by the OX system, at which the greatest number of contracts would trade at or nearest to the midpoint of the initial NBBO disseminated by OPRA, if any, or the midpoint of the best quote bids and quote offers in the OX Book. Midpoint pricing would not occur if that price would result in an order or part of an order being traded through. Instead the Trading Auction would occur at that limit price, or, if the limit price is superior to the quoted market, within the range of 75% of the best quote bid and 125% of the best quote offer. The

[19] *See* proposed NYSE Arca Rule 6.1A(a)(2).

[20] *See* proposed NYSE Arca Rule 6.1A(a)(10).

same process would be followed to reopen an option class after a trading halt.

Unmatched orders and Marker Maker quotes that are marketable against the initial NBBO would "sweep" through the OX Book and be executed in price/time priority. If the best price is at an away Market Center(s), orders would be routed away to the relevant Market Center(s).

Proposed NYSE Arca Rule 6.64A would allow the maximum number of contracts to be executed on the opening while giving orders priority over Market Maker quotes on the open.

Proposed NYSE Arca Rule 6.76A

NYSE Arca would display all non-marketable Limit Orders in the Display Order Process of the OX Book. Except as otherwise permitted by NYSE Arca Rule 6.76A, all bids and offers at all price levels in the OX Book would be displayed on an anonymous basis. OX also would disseminate current consolidated quotations/last sale information, and such other market information as may be made available from time to time pursuant to agreement between NYSE Arca and other Market Centers, consistent with the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information.

Bids and offers would be ranked and maintained in the Display Order Process and/or Working Order Process of the OX Book according to price-time priority.

a. Within the Display Order Process

Limit Orders, with no other conditions, and quotes would be ranked based on the specified price and the time of original order or quote entry. The displayed portion of Reserve Orders (not the reserve size) would be ranked in the Display Order Process at the specified limit price and the time of order entry. When the displayed portion of the Reserve Order is decremented completely, the displayed portion of the Reserve Order would be refreshed for:

(1) The displayed amount; or

(2) the entire reserve amount, if the remaining reserve amount is smaller than the displayed amount, from the reserve portion and would be submitted and ranked at the specified limit price and the new time that the displayed portion of the order was refreshed.

b. Within the Working Order Process

(1) The reserve portion of Reserve Orders would be ranked based on the specified limit price and the time of original order entry. After the displayed portion of a Reserve Order is refreshed from the reserve portion, the reserve portion would remain ranked based on the original time of order entry, while the displayed portion would be sent to the Display Order Process with a new time-stamp.

(2) All-or-None Orders would be ranked based on the specified limit price and the time of order entry.

(3) Stop and Stop Limit Orders would be ranked based on the specified stop price and the time of order entry.

(4) Stock Contingency Orders would be ranked based on the specified limit price and the time of order entry.

Consistent with Rule 602 under Regulation NMS,[21] the best-ranked displayed bids and offers to buy and the best ranked displayed bids and offers to sell in the OX Book and the aggregate displayed size of such bids and offers associated with such prices would be collected and made available to quotation vendors for dissemination.

The Display Order Process of the OX Book in proposed NYSE Arca Rule 6.76A provides the "traditional" book found on most options exchange. The Working Order Process, a new concept with respect to options exchanges, provides a method for booking contingency order as well as other new order types such as Reserve Orders. The Working Order Process provides greater flexibility to customers because of the different order types that would be permitted to be placed in the Working Order Process for future execution.

Proposed NYSE Arca Rule 6.76B

Proposed NYSE Arca Rule 6.76B outlines the applicable requirements for order execution and priority on the OX trading platform. Unless an LMM is entitled to a guaranteed participation because he is quoting at the NBBO, all orders would be matched based on strict price-time priority. For an execution to occur in any order process, the price must be equal to or better than the NBBO, unless OX has routed orders to away Market Centers at the NBBO.

a. Proposed NYSE Arca Rule 6.76B is Consistent with Section 11(a) of the Act.

The Exchange believes that the proposed allocation of orders based on strict price-time priority for orders executed via OX is consistent with Section 11(a) of the Act. As described earlier herein, Section 11(a) of the Act prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises discretion (collectively, "covered accounts") unless an exception applies. First enacted as part of the Securities Acts Amendments of 1975,[22] Section 11(a) was intended by Congress to address trading advantages enjoyed by exchange members and conflicts of interest in money management.[23] In particular, as noted by the Commission, Congress was concerned about members benefiting in their principal transactions from special "time and place" advantages associated with floor trading—such as the ability to "execute decisions faster than public investors."[24]

Where principal transactions contribute to the fairness and orderliness of exchange markets or do not reflect any time and place trading advantages, they are excepted from the prohibition. Among the transactions excepted under Section 11(a)(1) are those by a dealer acting in the capacity of a market maker,[25] bona fide arbitrage or hedge transactions,[26] and transactions made to offset errors.[27] Rule 11a2–2(T) under the Exchange Act provides an exception in addition to those delineated in the statute.[28]

Commonly referred to as the "effect versus execute" rule, Rule 11a2–2(T) permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute the transactions directly on the exchange floor. To comply with the rule's conditions, a member (1) Must transmit the order from off the exchange floor; (2) may not participate in the execution of the transaction once it has been transmitted to the member performing the execution;[29] (3) may not be affiliated with the executing member; and (4) with respect to an account over

[21] 17 CFR 242.602.

[22] *See* Pub. L. No. 94–29, 89 Stat. 110 (June 4, 1975).

[23] *See* Securities Reform Act of 1975, Report of the House Comm. on Interstate and Foreign Commerce, H.R. Rep. No. 94–123, 94th Cong., 1st Sess. (1975) ("House Report"); Securities Acts Amendments of 1975, Report of the Senate Comm. on Banking, Housing and Urban Affairs, S. Rep. No. 94–75, 94th Cong., 1st Sess. (1975).

[24] *See* Securities Exchange Act Release No. 14563 (Mar. 14, 1978), 43 FR 11542, at 11543 (Mar. 17, 1978); Securities Exchange Act Release No. 14713 (Apr. 27, 1978), 43 FR 18557, at 18588 (May 1, 1978) ("1978 Release II"); Securities Exchange Act Release No. 15533 (Jan. 29, 1979), 44 FR 6084, at 6092 (Jan. 31, 1979) ("1979 Release"). The 1978 and 1979 Releases cite the House Report at 54–57.

[25] *See* Section 11(a)(1)(A), 15 U.S.C. 78k(a)(1)(A). In addition to the application of Rule 11a2–2(T), members of the Exchange who are registered as market makers may also take advantage of the market maker exemption from Section 11(a), at least for securities in which they make a market.

[26] *See* Section 11(a)(1)(D) of the Act. 15 U.S.C. 78k(a)(1)(D).

[27] *See* Section 11(a)(1)(F) of the Act. 15 U.S.C. 78k(a)(1)(F).

[28] 17 CFR 240.11a2–2(T).

[29] The member may participate, however, in clearing and settling the transaction.

which the member or an associated person has investment discretion, neither the member nor the associated person may retain any compensation in connection with effecting the transaction without express written consent from the person authorized to transact business for the account in accordance with the rule.

As described by the Commission, these four requirements—off-floor transmission, non-participation in order execution, execution through an unaffiliated member and non-retention of compensation for discretionary accounts—were "designed to put members and non-members on the same footing, to the extent practicable, in light of the purposes of Section 11(a)." [30] If a transaction meets the requirements of the "effect versus execute" rule, it would be deemed to be "consistent with the purpose of Section 11(a)(1) of the Act, the protection of investors, and the maintenance of fair and orderly markets." [31]

OX represents a new electronic trading platform that may be utilized by Exchange members and their customers to effect the purchase and sale of securities. OX would place all of its Users—both members and non-members of the Exchange—on the "same footing," as intended by Rule 11a2–2(T). Given OX's automated matching and execution services, no Exchange member would enjoy any special control over the timing of execution or special order handling advantages for orders executed via OX, as all orders would be centrally processed for execution by computer, rather than being handled by a member through bids or offers made on the trading floor. Because OX's open, electronic structure is designed to prevent any Exchange members from gaining any time and place advantages, the Exchange believes that OX satisfies the four requirements of the "effect versus execute" rule as well as the general policy objectives of Section 11(a).

Rule 11a2–2(T) requires the orders for a covered account transaction to be transmitted from off the exchange floor. In considering the application of this requirement to a number of automated trading and electronic order-handling facilities operated by national securities exchanges, the Commission has deemed the off-floor requirement to be met if the order is transmitted from off the floor directly to the exchange floor by electronic means.[32] Like these other automated systems, orders sent to OX would be transmitted from remote terminals directly to the system by electronic means. Therefore, the Exchange believes that Users' orders electronically received by OX satisfy the off-floor transmission requirement for the purposes of the "effect versus execute" rule.

The "effect versus execute" rule further provides that the exchange member and its associated person may not participate in the execution of the transaction once the order has been transmitted. The Exchange believes that orders submitted to OX meet the non-participation requirement. Upon submission to OX, an order would enter the queue and be executed against another order in the OX Book based on an established matching algorithm. The execution depends not on the Exchange member, but rather, upon what other orders are entered into OX at or around the same time as the subject order, what orders are resident in the OX Book and where the order is ranked based on the price-time priority ranking algorithm. Therefore, at no time following the submission of an order is an Exchange member able to acquire control or influence over the result or timing of orders generated. That is, unlike a floor broker who currently enjoys a trading advantage inherent to being present on an exchange floor for transactions being executed on that floor, no OTP Holder or OTP Firm would be permitted to take advantage of any non-member User through the use of OX. As a result, the Exchange believes the non-participation requirement is met where OTP Holder or OTP Firm orders are matched and executed automatically in OX.

Although Rule 11a2–2(T) contemplates having an order executed by an exchange member who is unaffiliated with the member initiating the order, the Commission has recognized in the past that this requirement is not applicable where automated exchange facilities are used. For example, in considering the operation of COMEX and PACE, among other systems, the Commission noted that while there is no independent executing exchange member, the execution of an order is automatic once it has been transmitted into the systems.[33] Because the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange floors, the Commission has stated that executions obtained through these systems satisfy the independent execution requirement of Rule 11a2–2(T).[34] The Exchange believes that this principle is directly applicable to OX; the design of OX ensures that OTP Holders and OTP Firms do not have any special or unique trading advantages in handling their orders after transmission. Accordingly, the Exchange believes that an OTP Holder or OTP Firm effecting a transaction by utilizing OX satisfies the requirement for execution through an unaffiliated member.

Finally, the exemption in Rule 11a2–2(T) states that, in the case of a transaction effected for an account for which the initiating member exercises investment discretion, in general, the member may not retain compensation for effecting the transaction. As a prerequisite to the use of OX, if an Exchange member is to rely on Rule 11a2–2(T) for a managed account transaction, the Exchange member must comply with the limitations on compensation as set forth in paragraph (a)(2)(iv) of the "effect versus execute" rule.

b. Execution of Orders on OX

OX first would attempt to match incoming marketable bids and offers against bids or offers in the Display Order Process at the display price of the resident bids or offers for the total amount of option contracts available at that price or for the size of the incoming order, whichever is smaller. For the purposes of proposed NYSE Arca Rule 6.76B(a), the size of an incoming Reserve Order would include the displayed and reserve size, and the size of the portion of the Reserve Order resident in the Display Order Process is equal to its displayed size. NYSE Arca proposes to allocate incoming marketable bids and offers as follows:

c. The Display Order Process

(1) If there is an LMM quoting in the option series, an incoming marketable bid or offer would be matched against all Customer orders ranked ahead of the LMM, provided that such execution(s) must occur at a price equal to or better than the NBBO. The remaining balance

[30] *See* 1978 Release II at 18560.

[31] *See* Rule 11a2–2(T)(e) under the Act. 17 CFR 240.11a2–2(T)(e).

[32] Among the systems considered by the Commission are (1) The Philadelphia Stock Exchange's ("Phlx") VWAP Trading System; (2) the Pacific Exchange's ("PCX") Application of OptiMark; (3) Chicago Match; (4) the American Stock Exchange's Post Execution Reporting System and the Amex Switching System (*see* 1979 Release at n. 25); (5) the Intermarket Trading System; (6) the Multiple Dealer Trading Facility of the Cincinnati Stock Exchange; (7) the PCX's Communications and Execution System ("COMEX"); and (8) the Phlx's Automated Communications and Execution System ("PACE") (*see* 1979 Release at nn. 19–35).

[33] *See* 1979 Release.

[34] *Id.*

of the incoming marketable bid or offer would be matched against the quote of the LMM for either: (i) an amount equal to 40% of the remaining balance of the incoming bid or offer up to the LMM's disseminated quote size; or (ii) the LMM's share in the order of ranking in the OX Book, whichever is greater. Any remaining balance of the incoming marketable bid or offer would be matched against remaining orders and quotes in the Display Order Process in the order of their ranking.

(2) If there is no LMM quoting in the option series, the incoming marketable bid or offer would be matched against orders and quotes in the Display Order Process based upon their rankings.

(3) If the incoming marketable bid or offer has not been executed in its entirety, the remaining part of the order would be routed to the Working Order Process.

d. The Working Order Process

An incoming bid or offer that is not marketable against the Display Order Process would be sent to the Working Order Process to be executed against any Working Orders at or better than the NBBO. An incoming marketable bid or offer would be matched for execution against orders in the Working Order Process in the following manner:

(1) An incoming marketable bid or offer would be matched against orders within the Working Order Process in the order of their ranking, at the price of the displayed portion (for Reserve Orders) or at the limit price (for all other Working Order types), for the total amount of option contracts available at that price or for the size of the incoming bid or offer, whichever is smaller.

(2) If an incoming marketable order has not been executed in its entirety on OX and it has been designated as an order type that is eligible to be routed away, the order would be routed for execution to another Market Center(s). If an order has been designated as an order type that is not eligible to be routed away, the order either would be placed in the OX Book or cancelled if such order would lock or cross the NBBO.

e. Routing Away

(1) The order would be routed, either in its entirety or as component orders, to another Market Center(s) as a Limit Order equal to the price and up to the size of the quote published by the Market Center(s). The remaining portion of the order, if any, would be ranked and displayed in the OX Book in accordance with the terms of such order pursuant to NYSE Arca Rule 6.76A and such order would be eligible for execution pursuant to NYSE Arca Rule 6.76B.

(2) A marketable Reserve Order would be permitted to be routed serially as component orders, such that each component corresponds to the displayed size.

An order that has been routed away (either via Linkage or the OX Routing Broker) would remain outside of OX for a prescribed period of time (*i.e.*, based on current required response times for Linkage orders, the prescribed period of time would be no more than 20 seconds; NYSE Arca would use the same time standard for orders routed via the OX Routing Broker) and would be permitted to be executed in whole or in part subject to the applicable trading rules of the relevant Market Center. While an order remains outside of OX, it would have no time standing, relative to other orders received from Users at the same price that would be permitted to be executed against the OX Book.

Requests from Users to cancel their orders while the orders are routed away to another Market Center and remain outside OX would be processed subject to the applicable trading rules of the relevant Market Center and relevant Linkage Plan rules.

Where an order or portion of an order is routed away and is not executed either in whole or in part at the other Market Center (*i.e.*, all attempts at the fill are declined or timed-out), the order would be ranked and displayed in the OX Book in accordance with the terms of such order under proposed NYSE Arca Rule 6.76A and such order would be eligible for execution under proposed NYSE Arca Rule 6.76B.

Proposed Amendments to NYSE Arca Rules 6.32, 6.37, 6.40, 6.47, 6.62, 6.64, 6.75, 6.76 and 6.82. NYSE Arca is proposing to amend NYSE Arca Rules 6.32, 6.37, 6.40, 6.47, 6.62, 6.64, 6.75, 6.76 and 6.82 to indicate that they only apply to transactions executed on PCX Plus, or, in the case of NYSE Arca Rule 6.75, in open outcry.

2. Statutory Basis

The proposed rule change, as amended, is consistent with Section 6(b) of the Act,[35] in general, and furthers the objectives of Section 6(b)(5)[36] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such rule change, as amended, or

(B) institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–NYSEArca–2006–13 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, D.C. 20549–1090.

All submissions should refer to File No. SR–NYSEArca–2006–13. 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

[35] 15 U.S.C. 78f(b).

[36] 15 U.S.C. 78f(b)(5).

Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of NYSE Arca. 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 No. SR–NYSEArca–2006–13 and should be submitted July 14, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[37]

Nancy M. Morris,

Secretary.

[FR Doc. E6–9930 Filed 6–22–06; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54007; File No. SR–PCX–2006–16]

Self-Regulatory Organizations; Pacific Exchange, Inc. (n/k/a NYSE Arca, Inc.); Order Granting Approval of a Proposed Rule Change as Amended by Amendments No. 1, No. 2 and No. 4, to Revise Fees for Equity Securities Issued by Operating Companies Listed on the Archipelago Exchange

June 16, 2006.

On March 1, 2006, the Pacific Exchange, Inc. (n/k/a NYSE Arca, Inc., "NYSE Arca" or "Exchange"), through its wholly owned subsidiary PCX Equities, Inc. (n/k/a NYSE Arca Equities, Inc.), filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to revise its Schedule of Fees and Charges ("Fee Schedule") to revise certain listing fees for equity securities issued by operating companies listed on the Archipelago Exchange. On March 17, 2006, the Exchange filed Amendment No. 1 to the proposed rule change, and on May 5, 2006, the Exchange filed Amendment No. 2 to the proposed rule change. The proposed rule change, as modified by Amendments No. 1 and No. 2, was published for comment in the **Federal Register** on May 12, 2006.[3] On June 16, 2006, the Exchange filed Amendment No. 4 to the proposed rule change.[4] The Commission received no comments on the proposal.

The proposed rule change, described in the Notice, would amend the Fee Schedule to revise the application, initial, annual and additional shares listing fees for equity securities issued by operating companies listed on the Archipelago Exchange, the equities facility of the Exchange. The Exchange also proposed related modifications to the Fee Schedule.

The Commission has reviewed carefully the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[5] In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(4) of the Act,[6] which requires that an exchange have an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. The Commission believes the fees are reasonably tailored to enable the Exchange to compete effectively for listings, while supporting the costs of issuer services provided by the Exchange.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change as amended be, and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Nancy M. Morris,

Secretary.

[FR Doc. E6–9933 Filed 6–22–06; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53980; File No. SR–OCC–2006–04]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to a Back-Up Communication Channel to Internet Access for Clearing Members

June 14, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on April 27, 2006, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by OCC. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(i) of the Act[2] and Rule 19b–4(f)(1) thereunder[3] so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change adopts a policy statement that requires each clearing member that uses the Internet as its primary means to access OCC information and data systems through a secure website to maintain a secure backup to Internet access in order to provide for business continuance should there be an Internet outage.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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

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[37] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 53764 (May 5, 2006), 71 FR 27764 ("Notice").

[4] In Amendment No. 4, the Exchange made changes to conform the proposed rule text to its description in the filing to and correct typographical errors. Amendment No. 4 is a technical amendment and is not subject to notice and comment. The Exchange filed Amendment No. 3 to the proposed rule change on June 5, 2006 and withdrew it on June 16, 2006.

[5] In approving this proposed 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).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78s(b)(3)(A)(i).

[3] 17 CFR 240.19b–4(f)(1).

may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[4]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In 1997, OCC introduced a system called ECMI (Enhanced Clearing Member Interface) for clearing members to access C/MACS, OCC's post-trade and collateral processing system. At the time, all clearing members were required to use ECMI either as their primary means of access or as a back-up to a dedicated T1 line. In 2002, with the deployment of ENCORE for positions processing, clearing members were able to access ENCORE for processing position-related post-trade transactions anytime from anywhere through OCC's secure website by using the Internet. With the deployment of ENCORE Release 4.5 (Collateral), all post-trade transactions, including collateral transactions, could be accomplished using an Internet connection to the secure Web site. Most clearing members have now adopted the Internet as their primary means of accessing the secure website, and although some clearing members continue to use ECMI as a back-up communication channel, the current ECMI dial-up access does not provide the high speed and performance level necessary for daily ENCORE activity.

With so many clearing members relying on the Internet as their primary means of accessing OCC information and data systems, OCC has determined to adopt a policy statement that requires such clearing members to maintain (i) separate service agreements with two independent internet service providers and (ii) a back-up to Internet access through an approved communication channel. OCC will determine if a clearing member's selected back-up communication channel is applicable to that clearing member by reference to guidelines, set forth in the following chart, incorporated within the policy statement.

Business profile	Back-up communication channel
Category A	
• Ranks in the top 25 Clearing Members with the highest cleared volume during a calendar year ..... • Clears more than one account type as defined in OCC's By-Laws and Rules. • Clears two or more product types. • Conducts Clearing Member Trade Assignment ("CMTA") business. • High volume of daily post-trade input. • Generally utilizes multiple forms of collateral. • Utilizes most ancillary services offered by OCC. • Currently uses Lease Line for data transmissions.	T1 Line.
Category B	
• Has mid-level volume ..... • Clears only one or more account types as defined in OCC's By-Laws and Rules. • Clears one or more product types. • Moderate to small volume of post-trade input. • Generally utilizes one or two forms of collateral. • May utilize Lease Line for data transmissions.	T1 Line or ISDN.
Category C	
• Has low-level volume ..... • Clears no more than one account type as defined in OCC's By-Laws and Rules. • Clears no more than one product type. • Generally utilizes one or two forms of collateral. • Minimal post-trade input.	ISDN, OCC office 1 or fax input.

[1] Smaller firms that rely solely on the Internet can utilize OCC equipment if the clearing member is located in or near a city where OCC maintains operational centers.

OCC's purpose in adopting this policy statement is to ensure that clearing members maintain secure back-ups to Internet access in order to be able to perform critical business activities in a timely manner even in the event of an Internet outage.[5] The Policy Statement, which became effective on May 1, 2006, was not incorporated into OCC's Rules but was implemented as a stand-alone document.[6] Clearing members have already been notified about the adoption of this policy statement and its effective date.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

[4] The Commission has modified the text of the summaries prepared by OCC.

[5] In File No. SR–OCC–2006–03, OCC reduced the fixed monthly ancillary services fees charged to Tier I, II, and III clearing members to reflect the termination of the ECMI Interface and to partially offset the additional cost of establishing a back-up communication channel. This fee reduction became effective in April, 2006.

[6] Conforming changes are also being made to the Supplement to Agreement for OCC Services for Internet Access ("Supplement") to incorporate the Policy Statement into the terms of the Supplement. Copies of Amendment No. 1 to the Supplement to be executed by existing clearing members, as well as the Amended and Restated Supplement for new clearing members are attached to the proposed rule filing. Language proposed to be added to the Amended and Restated Supplement is underlined. Language proposed to be deleted is in brackets. See also Securities Exchange Act Release No. 46152 (July 1, 2002) 67 FR 45166 (July 8, 2002) [File No. SR–OCC–2001–09] for the text of the original Supplement.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(i) of the Act[7] and Rule 19b–4(f)(1)[8] thereunder because it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–OCC–2006–04 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–OCC–2006–04. 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 Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at *http://www.optionsclearing.com*. 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–OCC–2006–04 and should be submitted on or before July 14, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Nancy M. Morris,

Secretary.

[FR Doc. E6–9694 Filed 6–22–06; 8:45 am]

BILLING CODE 8010–01–P

[7] 15 U.S.C. 78s(b)(3)(A)(i).

[8] 17 CFR 240.19b–4(f)(1).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54011; File No. SR–Phlx–2005–65]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Change as Amended by Amendment No. 1 Relating to the Exchange's Business Conduct Committee and Disciplinary Rules

June 16, 2006.

I. Introduction

On November 2, 2005, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] to amend the Exchange By-Law Article X, Section 10–11 ("Business Conduct Committee") and Exchange Rules 960 and 970, the disciplinary rules. The Phlx filed Amendment No. 1 to the proposed rule change on May 16, 2006. The proposed rule change, as amended, was published for comment in the **Federal Register** on May 26, 2006 for a 15-day comment period, which ended on June 12, 2006.[3] The Commission received no comments on the proposal. This order approves the proposed rule change, as amended, on an accelerated basis.

II. Description of the Proposed Rule Change

The Phlx proposes to create the new staff position of a "Hearing Officer," who, along with two other Hearing Panelists, would hear contested disciplinary matters that are currently heard by a Panel appointed by the Chairman of the Business Conduct Committee ("BCC" or "Committee"). In connection with creating the Hearing Officer position, the Phlx proposes to amend Exchange By-law Article X, Section 10–11, which governs the BCC, and Exchange Rules 960 and 970, the disciplinary rules.

Background

Pursuant to Exchange Rule 960.5(a), a hearing on a Statement of Charges is currently held before a Hearing Panel composed of three persons appointed by the Chairman of the BCC or the Chairman's designee. The presiding person of each Hearing Panel is a member of the Committee. The other two persons on the Hearing Panel are members of the Exchange, or general partners or officers of member organizations, or such other persons whom the Chairman of the BCC or the Chairman's designee considers to be qualified.

Pursuant to Exchange Rule 960.5(a)(4), Hearing Panelists currently may be compensated in extraordinary cases, as determined by the Chairman of the BCC, in consultation with the Chairman of the Board of Governors. Exchange Rule 960.5(a)(4) provides factors to be considered when determining whether a case is extraordinary, which include but are not limited to the anticipated length of time of the hearing, the complexity and seriousness of the matter, and the magnitude of the potential penalty.

Currently, pursuant to Exchange Rule 960.5(d), after the conclusion of the hearing, the Hearing Panel reviews the entire record of the proceeding and submits a written hearing report to the Committee containing proposed findings of fact concerning the allegations in the Statement of Charges, conclusions as to whether a violation within the disciplinary jurisdiction of the Exchange has occurred and an enumeration of such violations, and recommendations as to appropriate sanctions, to be considered by the Committee at the next Committee meeting after the report is completed.

Pursuant to Exchange Rule 960.8, currently, after reviewing the entire record of the disciplinary proceeding,

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 53846 (May 19, 2006), 71 FR 30462.

the BCC, by a majority of the members voting, determines whether the Respondent has committed violations and the appropriate sanctions, if any. The BCC then issues a written decision, including in its decision a statement of findings and conclusions, with the reasons therefor, upon all material issues presented in the record, and whether each violation within the disciplinary jurisdiction of the Exchange alleged in the Statement of Charges has occurred.

Hearing Officer

The Exchange proposes to establish a new permanent professional position of Hearing Officer. The responsibilities of the Hearing Officer would include, but not be limited to: presiding over hearings in contested disciplinary cases authorized by the Exchange's BCC, conducting pre-hearing conferences, ruling on procedural or discovery matters, scheduling hearing sessions, making all necessary evidentiary or other rulings (in consultation with the Hearing Panelists), regulating the conduct of the hearing, imposing appropriate sanctions for improper conduct by a party or a party's representative, drafting and issuing decisions on behalf of the Hearing Panel and rendering decisions in connection with Summary Disposition Proceedings. The Hearing Officer would not be permitted to be involved in any manner in the investigation of possible misconduct, to participate in the consideration by the BCC of whether to institute a disciplinary action, to render a decision following a hearing without the concurrence of a majority of the Hearing Panel, to rule upon requests to disqualify the Hearing Officer or any member of the Hearing Panel, or to issue citations for violations of Exchange rules or floor procedure advices.[4]

The Hearing Officer would report to the Audit Committee for all performance and compensation purposes to help ensure that the Hearing Officer is completely neutral and accountable to the Audit Committee alone. The Hearing Officer would merely report to the General Counsel or his or her designee to comply with policies and procedures applicable to all employees of the Exchange, such as reporting vacation time or sick leave.

Hearing Panelists

The BCC Chair, or the Chair's designee, would select two Hearing Panelists for each matter from a pool of qualified individuals.[5] Consistent with current practice, the Hearing Panelists would be selected based on their background, experience and training, which should qualify them to consider and make determinations regarding the subject matter to be presented to the Hearing Panel. The Chair would also consider other factors, including the availability of the individual Hearing Panelists, the extent of their prior service on Hearing Panels and any relationship between such persons and the Respondent, which might make it inappropriate for such persons to serve on the Hearing Panel.

After being designated as a qualified Hearing Panelist, the Exchange intends to have each prospective Hearing Panelist complete a mandatory training session to be conducted by the Hearing Officer. Qualified Hearing Panelists would serve for three-year terms. After that time, if a Hearing Panelist wished to continue serving, the Hearing Panelist would be required to submit an updated application for review and approval by the BCC.

The Exchange proposes that Hearing Panelists be compensated for all hearing sessions and for one deliberation session per disciplinary proceeding for which a Hearing Panel renders a decision. A hearing session would be defined as any meeting between the parties and Hearing Panel, including pre-hearing conferences, but no compensation would be paid for "study time" (*i.e.*, reviewing materials in preparation for a pre-hearing conference or hearing). Hearing Panelists would be compensated at a fixed and non-negotiable rate for each hearing session that lasts four hours or less and for one deliberation session.[6] For example, if a hearing on a given day lasted a total of six hours, Hearing Panelists would be compensated for two hearing sessions. If a case settled prior to a hearing, Hearing Panelists would not receive any compensation, unless a pre-hearing conference (which is included in the definition of a hearing session and for which compensation would be given) was held. If a hearing were cancelled, the Hearing Panelists would not be entitled to compensation, but would be reimbursed for any travel-related expenses incurred, if applicable. If a Hearing Panelist is also a member of the Board, any Board or Standing Committee meetings that are held on the same day as the hearing would be considered a single meeting for the purposes of compensation.

Offers of Settlement and Issuance of Decisions

If an Offer of Settlement ("Offer") is submitted to the BCC before a hearing commences, even if the Hearing Panelists are selected, the Committee would still consider the Offer and, if accepted, issue a decision. The Exchange proposes that, if an Offer is submitted after a hearing commences, however, the Exchange staff would promptly submit its position with respect to such Offer. The Hearing Panel would then determine whether to consider the Offer and, if considered, whether to accept or reject the Offer.

The Hearing Panel would review the entire record of the disciplinary proceeding (or the written submissions, if applicable)[7] and, by a majority vote, determine whether the Respondent has committed violations and the appropriate sanctions, if any. The Hearing Panel would then issue a written decision, including in its decision a statement of findings and conclusions, with the reasons therefor, upon all material issues presented in the record, and whether each violation within the disciplinary jurisdiction of the Exchange alleged in the Statement of Charges has occurred. The Hearing Panel would be required to prepare its decision, absent extraordinary circumstances, within 60 days after Exchange staff has served the Hearing Officer and/or members of the Hearing Panel with a copy of the transcript of the hearing. A decision issued by the Hearing Panel would be considered final. Any appeal of the decision would

[4] In addition, in accordance with By-Law Article X, Section 10–11, the jurisdiction of the Hearing Officer and Hearing Panel shall not extend to the enforcement of rules and regulations of the Floor Procedure Committee or the Options Committee relating to order, decorum, health, safety and welfare on the trading floors, or to hearings held by and sanctions imposed by such committees relating to such matters, except as permitted by the rules of the Exchange or any interpretation thereof, and any regulations promulgated thereunder.

[5] The Exchange intends to form a "pool" of pre-qualified Hearing Panelists for contested disciplinary cases. In order to form this pool, the staff intends to develop a questionnaire, using as a model the questionnaire currently used by the NASD for potential members of arbitration panels. Members of the BCC would not be eligible to serve as Hearing Panelists. However, as discussed in proposed Exchange Rule 960.5(a)(7), if the Hearing Officer is unable to preside over the hearing for any reason, the Chair of the BCC shall appoint a qualified replacement Hearing Officer for that hearing from a pre-screened pool of qualified candidates, which could possibly include a member of the BCC.

[6] Compensation for Hearing Panelists would be subject to a cap amount per day, regardless of the number of hearing sessions (or Board or Committee meetings attended).

[7] In lieu of requesting a hearing, a Respondent may request that the matter be decided upon written submissions. The Hearing Officer shall decide whether to grant the request and determine a schedule for each party to make its respective submissions. *See* proposed Exchange Rule 960.4.

be taken directly to the Exchange's Board of Governors.

III. Discussion

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[8] In particular, the Commission finds that the proposed rule change, as amended, is consistent with section 6(b)(5) of the Act,[9] which requires, among other things, that the rules of a national securities 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. In addition, the Commission finds that the proposed rule change, as amended, is consistent with section 6(b)(6) of the Act,[10] which requires that the rules of the exchange provide that its members and persons associated with its members shall be appropriately disciplined for violation of the provisions of the Act, the rules and regulations thereunder, or the rules of the exchange, and with section 6(b)(7) of Act,[11] which requires that the rules of the exchange provide a fair procedure for the disciplining of members and persons associated with members.

The Commission believes that the proposed rule change should streamline and expedite the hearing process by having a permanent Hearing Officer and pre-screened, qualified Hearing Panelists, and by having the Hearing Panel issue a final decision itself, without having to go to the BCC for review and approval. In addition, the Commission notes that the Exchange proposes to place restrictions on the activities of the Hearing Officer, and to require a Hearing Officer or Hearing Panelist to remove himself from consideration of a matter if he cannot render a fair and impartial decision. The Commission believes that these measures should help to ensure to that the Hearing Officer and Hearing Panelists are completely neutral and that their decisions are fair and impartial. Furthermore, the Commission believes that having a single Hearing Officer preside over all hearings will increase the likelihood that more uniform sanctions will be imposed for similar misconduct by members, making the Exchange's disciplinary process more fair.

The Commission finds good cause for accelerating approval of the proposed rule change, as amended by Amendment No. 1, prior to the 30th day after the date of publication of notice of the filing in the **Federal Register**. The Commission published the proposed rule change for public comment on May 26, 2006 for a 15-day comment period and received no comments on the proposal. The Commission believes that accelerated approval should expedite the appointment of a hearing officer and allow the Exchange to implement a more efficient disciplinary process.[12]

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[13] that the proposed rule change (SR–Phlx–2005–65), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Nancy M. Morris,

Secretary.

[FR Doc. E6–9934 Filed 6–22–06; 8:45 am]

BILLING CODE 8010–01–P

[8] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78f(b)(6).

[11] 15 U.S.C. 78f(b)(7).

[12] The Commission notes that the Exchange has represented that the BCC will hear any current matters through their completion if a hearing commenced prior to the date of this approval order. Thus, any ongoing hearing will be heard by the BCC through its completion and the BCC will issue a decision accordingly.

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10497 and # 10498]

Kentucky Disaster # KY–00007

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the Commonwealth of Kentucky dated 6/15/2006.

Incident: Severe Storms and Tornadoes.

Incident Period: 4/2/2006.

Effective Date: 6/15/2006.

Physical Loan Application Deadline Date: 8/14/2006.

Economic Injury (EIDL) Loan Application Deadline Date: 3/15/2007.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, National Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Christian

Contiguous Counties:

Kentucky: Caldwell, Hopkins, Muhlenberg, Todd, Trigg

Tennessee: Montgomery, Stewart

The Interest Rates are:

	Percent
Homeowners With Credit Available Elsewhere	5.750
Homeowners Without Credit Available Elsewhere	2.875
Businesses With Credit Available Elsewhere	7.408
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.000
Businesses And Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 10497 C and for economic injury is 10498 0.

The States which received an EIDL Declaration # are Kentucky, Tennessee.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: June 15, 2006.

Hector V. Barreto,

Administrator.

[FR Doc. E6–9957 Filed 6–22–06; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 5449]

Culturally Significant Objects Imported for Exhibition Determinations: "Crossroads: Modernism in Ukraine, 1910–1930"

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and

Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "Crossroads: Modernism in Ukraine, 1910–1930," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Cultural Center of Chicago, Chicago, Illinois, from on or about July 21, 2006, until on or about October 15, 2006, at the Ukrainian Museum, New York, New York, from on or about November 4, 2006, until on or about March 15, 2007, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Wolodymyr Sulzynsky, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State, (telephone: 202/453–8050). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: June 16, 2006.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E6–9961 Filed 6–22–06; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5450]

Culturally Significant Objects Imported for Exhibition Determinations: "Holy Image Hallowed Ground: Icon From Sinai"

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "Holy Image Hallowed Ground: Icons from Sinai," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The J. Paul Getty Trust, from on or about November 14, 2006, until on or about March 4, 2007, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Paul Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453–8050). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: June 15, 2006.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E6–9960 Filed 6–22–06; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5448]

Culturally Significant Objects Imported for Exhibition Determinations: "New Photography 2006: Jonathan Monk, Barbara Probst, and Jules Spinatsch"

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "New Photography 2006: Jonathan Monk, Barbara Probst, and Jules Spinatsch ," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Museum of Modern Art, New York, New York, from on or about September 22, 2006, until on or about January 8, 2007, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Wolodymyr Sulzynsky, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453–8050). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: June 16, 2006.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E6–9962 Filed 6–22–06; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5447]

Determination and Certification Under Section 599E of The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Pub. L. 109–102)

Pursuant to the authority vested in me as Secretary of State, including under section 559E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act (FOAA), 2006 (Pub. L. 109–102), I hereby determine and certify that:

(1) Assistance for the fiscal year will be provided only for individuals who have (A) verifiably renounced and terminated any affiliation or involvement with FTOs or other illegal armed groups and (B) are meeting all the requirements of the Colombian Demobilization Program, including having disclosed their involvement in past crimes and their knowledge of the FTOs structure, financing sources, illegal assets, and the location of kidnapping victims and bodies of the disappeared;

(2) The Government of Colombia is providing full cooperation to the Government of the United States to extradite the leaders and members of the FTOs who have been indicted in the United States for murder, kidnapping, narcotics trafficking, and other violations of United States law;

(3) The Government of Colombia is implementing a concrete and workable framework for dismantling the organizational structures of foreign terrorist organizations;

(4) Funds shall not be made available as cash payments to individuals and are available only for activities under the following categories: Verification, reintegration (including training and education), vetting, recovery of assets for reparations for victims, and investigations and prosecutions.

This Determination shall be published in the **Federal Register** and copies shall be transmitted to the appropriate committees of Congress.

Dated: June 15, 2006.

Condoleezza Rice,

Secretary of State, Department of State.

[FR Doc. E6–9963 Filed 6–22–06; 8:45 am]

BILLING CODE 4710–29–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending June 2, 2006

The following Agreements were filed with the Department of Transportation under the sections 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1382 and 1384) and procedures governing proceedings to enforce these provisions. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2006–24991.
Date Filed: June 2, 2006.
Parties: Members of the International Air Transport Association.
Subject:
CSC/28/Meet/005/06 dated June 1, 2006.
Finally Adopted Resolutions: 621/622.
Intended effective date: October 1, 2006.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E6–9954 Filed 6–22–06; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending June 2, 2006

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart B (formerly subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 et. seq.).

The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–1996–1393.
Date Filed: June 1, 2006.
Due Date for Answers, Conforming Applications, or Motion To Modify Scope: June 22, 2006.
Description: Application of American Airlines, Inc. requesting renewal of its certificate for Route 517, authorizing scheduled foreign air transportation of persons, property and mail between Dallas/Ft. Worth, TX and Tokyo, Japan.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E6–9955 Filed 6–22–06; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program; Southwest Florida International Airport, Fort Myers, FL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the Lee County Port Authority under the provisions of 49 U.S.C. (the Aviation Safety and Noise Abatement Act, hereinafter referred to as "the Act") and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On February 11, 2005, the FAA determined that the noise exposure maps submitted by the Lee County Port Authority under Part 150 were in compliance with applicable requirements. On May 30, 2006, the FAA approved the Southwest Florida International Airport Noise Compatibility Program. Most of the recommendations of the program were approved.

DATES: *Effective Date:* The effective date of the FAA's approval of the Southwest Florida International Airport noise compatibility program is May 30, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Lindy McDowell, Federal Aviation Administration, Orlando Airports District Office, 5950 Hazeltine National Dr., Suite 400, Orlando, Florida 32822, (407) 812–6331, Extension 130. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for Southwest Florida International Airport, effective May 30, 2006.

Under section 47504 of the Act, an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional non-compatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) Part 150 is a local program, not a Federal Program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measure should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act, and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing non-compatible land uses around the airport and preventing the introduction of additional non-compatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and

responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR Part 150, Section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Orlando, Florida.

Lee County Port Authority submitted to the FAA on February 8, 2005, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from October 2002, through May 26, 2006. The Southwest Florida International Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on February 11, 2005. Notice of this determination was published in the **Federal Register** on February 11, 2005.

The Southwest Florida International Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from May 26, 2006 to the year 2011. It was requested that FAA evaluate and approve this material as a noise compatibility program as described in section 47504 of the Act. The FAA began its review of the program on December 1, 2005, and was required by a provisions of the Act to approve or disapprove the program within 180-days (other than the use of new or modified flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained five (5) proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the FAA effective May 30, 2006.

Outright approval was granted for four of the specific program elements. The measure to modify the existing noise mitigation procedure #6, Runway 6 Departure Procedure was partially disapproved for purposes of FAR Part 150, pending submission of additional information to demonstrate noise benefits. The following describes the approved actions on and off airport:

Operational Measures

1. Continue Existing Operational Noise Mitigation Procedures

This measure is to continue nine of ten existing voluntary operational Noise Mitigation Procedures in place. Benefits of these existing measures are summarized at Table 11–3;

1. *Preferential Runway Use Program*—Runway 6 is the preferred runway when the wind, weather, and activity permit.

2. *Visual Approaches*—Turbojet aircraft will normally be vectored to intercept the extended runway centerline seven miles or more from the end of the runway (as activity levels permit). Aircraft on the right downwind leg to Runway 6 or left downwind to Runway 24 will normally be kept above 5000 feet until they are abeam the Airport. Aircraft arriving to Runway 6 and intercepting the extended centerline over the Gulf of Mexico west of Fort Myers Beach should remain above 3,000 feet, if able, to reduce the noise over Fort Myers Beach.

3. *"Keep 'em High"*—The Airport participates in the "Keep 'em High;" program, and turbojet aircraft are encouraged to keep as high as possible.

4. Properly equipped turbojet aircraft departing Runway 24 are encouraged to use the *MAPUL–1 Standard Instrument Departure (SID)* that is pending implementation by the FAA.

5. Runway 24 turbojet departures that are not properly equipped to follow the *MAPUL–1 SID* should request the *Alico Three Departure SID.*

6. Propeller aircraft should reference *AOPA's recommended noise abatement procedures.*

7. Turbojet business aircraft should use either *the aircraft manufacturer's recommended noise Abatement Procedures, the NBAA's Approach and Landing Procedure (VFR and IFR), or Standard Departure Procedure.*

8. Commercial aircraft should follow the *Distant Noise Abatement Departure Profile* as defined by FAA Advisory Circular AC91–53A.

9. At no time shall engines by *run up* for test or maintenance purposes between 2300 hours (11 p.m.) and 0600 hours (6 a.m.) without prior approval from the Executive Director or his/her representative.

(NCP, pages 11–2 through 11–3; Exhibits 11–1; and Table 11–3)

FAA Action: Approved as a continuation of the voluntary measures in place, subject to traffic, weather, and airspace safety and efficiency. The FAA approved these measures submitted in previous Part 150 studies (1990, 1995) as demonstrating noise mitigating benefits at the airport. They place aircraft over less noise-sensitive corridors and keep aircraft at higher altitudes over noise-sensitive sites.

2. Modify Existing Noise Mitigation Procedure #6; Runway 6 Departure Procedure

This measure is to modify Existing Operational Noise Mitigation Procedure Number 6 (Runway 6 Departure Procedure). The existing measure 6 states "Runway 6 departures will be held on tower frequency until crossing departure end of runway and will be turned no further west than 350 degrees until they are five miles from the airport." The NCP recommends that the noise abatement procedure be modified to use RSW 2.7 DME to demarcate the turn for northbound turbojet aircraft departing on Runway 6. The procedure would provide "For turbojet aircraft, no turns before RSW 2.7 DME unless directed by air traffic control". A lighted sign would also be added to the Runway 6 departure end once FAA determines where the turning point is located. The modified procedure should be included in an updated pilot briefing handout. (NCP, pages 11–2 through 11–3).

FAA Action: Continuation of the voluntary measure in place is approved. Modifications to the procedure are disapproved for purposes of part 150, pending submission of additional information to demonstrate noise benefits. The existing measure, approved by the FAA in earlier Part 150 studies, is intended to move overflights from the school.

3. Purchase and Install Flight Tracking Equipment

In is recommended that a radar flight tracking system be implemented at the Airport to assist the Lee County Port Authority in monitoring the voluntary noise mitigation procedures and to assist in the development of modifications to these procedures that will benefit the citizens living in proximity to the Airport. The system will not be used for mandatory enforcement of the voluntary procedures. It is recommended that the flight tracking system output be used to review all recommended operational procedures during the next part 150 update (NCP, pages 11–8; and Tables

11–1, 11–2, 11–3, and 13–1 through 13–3).

FAA Action: Approved. The flight tracking system must technically be able to interface with the FAA equipment and operations, and be done in compliance with FAA data download requirements. Eligibility for Federal funding and scope of the proposed project will be determined at the time of application. For purposes of aviation safety, this approval does not extend to the use of monitoring equipment for enforcement purposes by in-situ measurement of any pre-set noise thresholds and shall not be used for mandatory enforcement of any voluntary measure.

4. Support the Implementation/Funding for the Implementation of RNAV Procedures

While Table 13–1, Summary of Recommended Measures, describes this as a single measure, the NCP describes this support in two ways. (NCP, pages 11–5 through 11–6; 11–8 and 11–9; Tables 11–1, 11–2, 11–3 and 13–1).

(a) Pages 11–5 and 11–6 suggest a curved RNAV approach to Runway 6, the "MAPUL 1 Instrument Departure Procedure (IDP) in reverse" might be feasible in the future. The NCP states "This approach would also likely provide the most benefit if implemented primarily during nighttime hours. The NCP recommendation is to "continue to monitor the potential for this type of approach and further evaluate it when the technology is more readily available." The airport sponsor recommends the FAA study advance technology navigational procedures to determine if they can be used for noise mitigation at RSW.

FAA Action: Approved as to sponsor efforts to monitor and evaluate this RNAV approach.

(b) At pages 11–8 and 11–9, the NCP evaluates "Other actions or combinations of actions which would have a beneficial noise control or abatement impact on the public." The NCP states in relevant part "* * * The MAPUL–1 RNAV procedures is currently pending publication and implementation. This procedure will help reduce the potential for drift as aircraft depart Runway 24 and climb out through the Alico corridor. The MAPUL–1 RNAV procedure will allow properly equipped aircraft to make adjustments to their course as may be required to * * * minimize the impacts on the surrounding residential communities." In the NCP, it is recommended that the FAA continue with the planned implementation of the MAPUL–1 RNAV procedure and maintain support for the expansion of the RNAV program.

FAA Action: No Action Required.

Land Use Measures

The analysis of recommendations in Chapter 11 refers to a single land use measure described in Chapter 12 of the NCP (page 11–6, Options Required for Consideration by FAR Part 150). That recommendation is to update overlay zones and the requirements therein for Lee County.

5. Update Noise Overlay Zones

During the Noise Overlay Zone Land Development Code approval process (completed in 2000), the Lee County Commission directed the Lee County Port Authority to reevaluate the overlay zone in an Update to the FAR Part 150 study to be completed by 2006. The Commission recognized that quieter aircraft were being added to the air carrier and cargo fleet mix and felt that the update should occur to determine whether the extent of the overlay zone limits and associated controls should be maintained or modified

Proposed overlay zones are shown on Exhibit 12–2 and are for the year 2020. This is to address potential long range noise impacts and expected growth in airport operations (page 12–6). A summary of the land uses of the land uses for the four zones depicted on Exhibit 12–2 is on page 12–4. Zone B encompasses the DNL 60 dB noise contour. No new noise-sensitive land uses would be allowed. Overflights and notice of potential noise associated with the airport would apply to all development, new and existing. Land uses in Zone B compare to previous Zone 3, with the addition of public notification.

Due to the reduction in noise exposure since the last Part 150 study (approved in 1995), the zones and controls have been modified. Zones C and D (encompassing areas larger than Zone B), would include notification of potential noise and overflights. Notification will include reference to factual information about flight corridors, proposed long range airport development, and anticipated growth in operations at the airport for the 2020 timeframe (Zone C). Flight training notice would be provided for Zone D (page 12–9).

The LCPA will be proactive about publishing notification and preparing a noise notification brochure for distribution as described on page 12–10. It will provide facts about corridors and discourage noise sensitive development in the corridors (page 12–11, Exhibit 12–10). Also, LCPA will have a record of flight corridors used, via passive radar (Measure 3 in this ROA). LCPA proposes to update forecasts in five years per Lee Plan Policy 1.7.1 or sooner if events occur to significantly alter the contours (pages 12–12 and 12–13).

(NCP, pages 12–1 through 12–13; Exhibits 12–1, 12–2, 12–3, 12–4, 12–5, 12–6, 12–7, 12–8, 12–9, and 12–10; and Tables 12–1, 12–2, and 13–1)

FAA Action: Approved. This is within the authority of the local land use jurisdictions; the Federal government does not control local land use. Outside the DNL 65 dB noise contour, FAA as a matter of policy encourages local efforts to prevent new noncompatible development immediately abutting the DNL 65 dB contour and to provide a buffer for possible growth in noise contours beyond the forecast period.

These determinations are set forth in detail in a Record of Approval signed by the FAA on May 30, 2006. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative office of the Lee County Port Authority. The Record of Approval also will be available on-line at *http:/www.faa.gov/arp/environmental/14cfr150/index14.cfm.*

Issued in Orlando, Florida on June 15, 2006.

Bart Vernace,

Acting Manager, Orlando, Airports District Office.

[FR Doc. 06–5634 Filed 6–22–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 202: Portable Electronic Devices

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 202 Meeting: Portable Electronic Devices.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of FTCA Special Committee 202: Portable Electronic Devices.

DATES: The meeting will be held on July 1–14, 2006, from 9 a.m. to 4:30 p.m.

ADDRESSES: The meeting will be held at Conference Rooms, 1828 L Street, NW., Suite 805, Washington, DC.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036–5133;

Telephone (202) 833–9339; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 202 Portable Electronic Devices meeting. The agenda will include:

- July 10:
  - Co-chair's Strategy Sessions with Working Group Leaders.
  - Working Group Progress and Status Update/Plan for Terms of Reference (TOR) Compliance review.
  - Overall Review of Plan and Schedule for Phase 2.
  - Plan for Recommendation on Scoping of Picocell Assessment and Guidelines.
  - WG1, WG2, and WG3 to develop recommendations to SC–202 plenary on Mask-Like Object, recommendations to FCC on emissions, and susceptibility limits required from the aircraft systems side.
  - Working Groups Coordination.
  - Time for all working Groups to meet together if required.
  - Working Groups (WF) 1 through 5 meet.
  - WG–1, PED Characterization, Garmin Room.
  - WG–2, Aircraft Path Loss and Test, with WG–3, Aircraft Susceptibility, MacIntosh-NBAA-Hilton/ATA Room.
  - WG–4, Risk Assessment, Mitigation, and process, Colson Board Room.
  - WG–5, airplane Design and Certification Guidance, ARINC Conference Room.
  - Chairmen's Strategy session with working Group Leaders;
  - Coordinate Recommendations to Plenary: Phase 2 work plan, TOR compliance verification, and schedule.
- July 11 & 13:
  - Opening Plenary Session (Welcome and Introductory Remarks, Review Agenda, Review/Approve previous Common Plenary Summary, Review Open Action Items).
  - Results of RTCA PMC meeting June 27 on revisions to SC–202 Terms of Reference (TOR).
  - Update from Regulatory Agencies (FAA, UK–CAA, Canadian TSB, FCC, or other).
  - Update on Work of EUROCAE Working Group WG58 by Michel Crokaert of Airbus, WG58 Chairman.
  - CEA PEDs Working Group Report and plans for ANSI accredited standard by Doug Johnson of CEA.
  - Update on CTIA Task Force on cell phones on airborne aircraft by Paul Guckian of QUALCOMM.
  - Presentation on Active RFID Transponder NASA test results analysis by Chuck LaBerge of Honeywell.
  - Presentations on Operational Ultra-WideBand (UWB) Technologies (two separate presentations are planned to describe the underlying technologies).
  - Break-out sessions for Working Groups and Focus Groups on Phase 2 document draft update recommendations:
  - Working Groups (WG) 1 through 5 meet.
  - WG–1, PED Characterization.
  - WG–2, Aircraft Path Loss and Test, with WG–3, Aircraft Susceptibility.
  - WG–4, Risk Assessment, Mitigation, and process.
  - WG–5, Airplane Design and Certification Guidance.
  - FCC Recommendations Focus Group.
  - Picocell Focus Group.
  - Plan for Access to Material and Organization of Data in Appendix CD for Phase 2 Document.
  - Committee Consensus on Remaining Phase 2 Work Plan. TOR Compliance Plan, and Schedule for Completion.
- July 12:
  - Co-chairs' Strategy Session with Working Group Leaders.
  - WG Progress and Status Update/ Plan for (TOR) Compliance Review.
  - Overall Review of Plan and Schedule for Phase 2.
  - Working Groups Coordination.
  - Time for all Working Groups to meet, if required.
  - Working Groups Sessions.
  - WG–1, PEDs Characterization.
  - WG–2, Aircraft Path Loss and Test with WG–3, Aircraft Susceptibility.
  - WG–4, Risk Assessment, Mitigation, and Process.
  - WG–5, Airplane Design and Certification Guidance.
  - Focus Groups Sessions.
  - FCC Recommendations Focus Group.
  - Picocell Focus Group.
  - Chairmen's Strategy Session with Working Group Leaders.
  - Phase 2 Goals, Schedule, and Work Plan.
- July 13:
  - Chairmen's Day 2 Opening Remarks and Process Check.
  - Working Groups report out.
    - Each Working Group will cover the following:
  - TOR Compliance Assessment.
  - Recommendations for Plenary Consensus on FRAC Draft.
  - Phase 2 Work Remaining: work plan and schedule for completion
  - Working Group 1 (PEDs Characterization, Test and Evaluation).
  - FCC Recommendations Focus Group.
  - Working Group 2 (Aircraft Test and Analysis).
  - Working Group 3 (Aircraft Systems Susceptibility).
  - Picocell Focus Group.
  - Working Group 4 (Risk Assessment, Practical Application, and Final Documentation).
  - Working Group 5 (Recommended Guidance for Airplane Design and Certification).
  - Plenary Consensus on Final Draft DO–294 Update to Final Review And Comment (FRAC):
  - Working Groups' teleconference and meeting schedule, plan for Phase 2 work completion.
  - Closing Session (Other Business, Date and Place of Upcoming Meetings (October 16–20, 2006, Sixteenth Plenary at RTCA; December 5–7, 2006 Seventeenth Plenary at RTCA, Closing Remarks, Adjourn).
  - Break-out sessions for Working Groups Phase 2 work if required and time permits.
- July 14:
  - Working Groups and Focus Groups complete action items and prepare and format document for Final Review And Comment (FRAC), as required.

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed at the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 7, 2006.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. 06–5635 Filed 6–22–06; 8:45am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in Maryland

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by FHWA, U.S. Army Corps of Engineers (USACE), DoD, and other Federal agencies.

SUMMARY: This notice announces actions taken by the FHWA, USACE, and other Federal agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to a proposed highway project, the Intercounty Connector, I–270 to US 1 in Montgomery and Prince George's Counties in the State of Maryland. Those actions grant licenses, permits and approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before December 20, 2006. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Johnson, Environmental Program Manager, Federal Highway Administration, City Crescent Building, Suite 2450, 10 S. Howard Street, Baltimore, MD 21202, 410–962–4440, *Maryland.fhwa@dot.gov* (regular office hours are 8 a.m. to 4:30 p.m.); or Mr. Wesley Mitchell, Project Manager, Maryland State Highway Administration, 707 North Calvert Street, Mail Stop C–301, Baltimore, MD 21202, 1–866–462–0020, *wmitchell@sha.state.md.us* (regular office hours are 8 a.m. to 4 p.m.); or Mr. Paul Wettlaufer, U.S. Army Corps of Engineers, Baltimore District—CENAB–OP–R, P.O. Box 1715, Baltimore, Maryland 21203–1715, (410) 962–5676, *paul.wettlaufer@usace.army.mil* (regular office hours are 8:30 a.m. to 4 p.m.).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA, USACE, and other Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the following highway project in the State of Maryland: the Intercounty Connector (Project No. AT376B11), from I–270 to US 1 in Montgomery and Prince George's Counties. The project will be a multi-modal limited-access six-lane toll highway approximately 19 miles in length. The Intercounty Connector will serve to link existing and proposed development areas between the I–270 and I–95/US 1 corridors within central and eastern Montgomery County and northwestern Prince George's County. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Impact Statement (FEIS) for the project approved on January 3, 2006, in the FHWA Record of Decision (ROD) issued on May 29, 2006, and in other project records. The FEIS, ROD, and other documents in the FHWA project file are available by contacting the FHWA or the Maryland State Highway Administration at the addresses provided above. the FHWA FEIS and ROD can be viewed and downloaded from the project Web site at *http://www.iccstudy.org*, or viewed at public libraries in the project area. The USACE ROD and Permit # CENAB–OP–RMS (MD SHA & MTA/INTERCOUNTY CONNECTOR) 05–60011–1, issued on June 13, 2006, can be viewed and downloaded from the USACE Web site at *http://www.nab.usace.army.mil/Regulatory/news.htm*.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].
2. *Air:* Clean Air Act, 42 U.S.C. 7401–7671(q).
3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers), 23 U.S.C. 319.
4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536], Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)], Migratory Bird Treaty Act [16 U.S.C. 703–712].
5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archaeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–(ii)]; Archaeological and Historic Preservation Act [16 U.S.C. 469–469(c)].
6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].
7. *Wetlands and Water Resources:* Clean Water Act, 33 U.S.C. 1251–1377 (section 404, section 401, section 319); Coastal Zone Management Act, 16 U.S.C. 1451–1465; Safe Drinking Water Act (SDWA), 42 U.S.C. 300(f)–300(j)(6); Rivers and Harbors Act of 1899, 33 U.S.C. 401–406; Wild and Scenic Rivers Act, 16 U.S.C. 1271–1287; Emergency Wetlands Resources Act, 16 U.S.C. 3921, 3931; TEA–21 Wetlands Mitigation, 23 U.S.C. 103(b)(6)(m), 133(b)(11); Flood Disaster Protection Act, 42 U.S.C. 4001–4128.
8. *Hazardous Materials:* Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601–9675; Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901–6992(k).
9. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species; E.O. 13274 Environmental Stewardship and Transportation Infrastructure Project Reviews.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Issued on: June 16, 2006.

Nelson J. Castellanos,

Division Administrator, Baltimore, MD.

[FR Doc. 06–5615 Filed 6–22–06; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

The Alton & Southern Railway Company

[Waiver Petition Docket Number FRA–2005–23458]

The Alton & Southern Railway Company (ALS) seeks a waiver of compliance from certain provisions of 49 CFR part 232, *Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment.* Specifically, § 232.205, Class I brake test—initial terminal inspection for the movement of the interchange cut from the Norfolk Southern connection at 42nd Street in East St. Louis, Illinois to

the ALS Gateway Yard in East St. Louis, Illinois, a distance of no more than 1¼ mile. This move is made entirely within yard limits and does not cross any public road crossings. The interchange cut in question is a complete train that has had a Class I brake test, but has had the locomotive power removed and is "off-air" for more than four hours.

ALS states that the reason for this request is due to the conditions of the crime and violent acts that have happened at this location and the surrounding neighborhood in the past two years. ALS has had two employees accosted on a locomotive and one employee assaulted while performing work at this interchange. One employee was assaulted and killed from a gun shot in this same area. ALS has a policy to only pull cars from this area during daylight hours.

Due to the reasons stated above, ALS would like to be able to perform a Class III brake test—trainline continuity inspection, in lieu of performing a Class I brake test for this short move.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–2005–23458) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 30 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov*.

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

Issued in Washington, DC, on June 19, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E6–9971 Filed 6–22–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

[Docket Number FRA–2006–24987]

Applicants: Union Pacific Railroad Company, Mr. W.E. Wimmer, Vice President—Engineering, 1400 Douglas Street, Mail Stop 0910, Omaha, Nebraska 68179.

BNSF Railway Company, Mr. Ralph E. Young, Director Signal Engineering, 4515 Kansas Avenue, Kansas City, Kansas 66106–1199.

The Union Pacific Railroad Company (UP) and the BNSF Railway Company, jointly seek approval of the proposed modification of the traffic control system on the two main tracks, between milepost 232 and milepost 235 on the UP's Houston West Belt Subdivision, near Houston, Texas. The proposed changes consist of the removal of four control points, conversion of the remaining industry lead switches to hand operation with leaving signals, and removal of several intermediate signals.

The reason given for the proposed changes is that the removal of unnecessary switches and signals will allow more trains to move through the corridor efficiently without undue delay, while maintaining safety.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov*.

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

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC, on June 19, 2006.

Grady C. Cothen, Jr.

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E6–9969 Filed 6–22–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval

for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

[Docket Number FRA–2006–24646]

Applicant: Union Pacific Railroad, Mr. John C. Estes, Jr., Superintendent Locomotive, 1400 Douglas Stop 1050, Omaha, Nebraska 68179.

The Union Pacific Railroad Company (UP) seeks relief from the requirements of the Rules, Standards and Instructions, Title 49 CFR, part 236, section 236.586, Daily or after trip test. Specifically, UP is seeking to change the administration of the first sentence in paragraph (a) from "intervals of not more than 2 months" to "intervals of not more than 92 days" for all cab signal devices on locomotives operated on the UP.

Applicant's justification for relief: To maximize overall safety by performing maintenance in the best working environment with the highest skilled and best trained personnel, which can best be achieved by performing maintenance in conjunction with the 92-day periodic inspection.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, 400 7th Street, SW., Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

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

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC, on June 19, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E6–9970 Filed 6–22–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 290 (Sub-No. 5) (2006–3)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board has approved the third quarter 2006 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The third quarter 2006 RCAF (Unadjusted) is 1.192. The third quarter 2006 RCAF (Adjusted) is 0.566. The third quarter 2006 RCAF–5 is 0.540.

DATES: *Effective Date:* July 1, 2006.

FOR FURTHER INFORMATION CONTACT: Mac Frampton, (202) 565–1541. [Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision, which is available on our Web site *http://www.stb.dot.gov.* To purchase a copy of the full decision, write to, e-mail or call the Board's contractor, ASAP Document Solutions; 9332 Annapolis Rd., Suite 103, Lanham, MD 20706; e-mail *asapdc@verizon.net;* phone (202) 306–4004. [Assistance for the hearing impaired is available through FIRS: 1–800–877–8339.]

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: June 19, 2006.

By the Board, Chairman Buttrey and Vice Chairman Mulvey.

Vernon A. Williams,

Secretary.

[FR Doc. E6–9943 Filed 6–22–06; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34729 (Sub-No. 1)]

Saginaw Bay Southern Railway Company—Acquisition and Operation Exemption—In Saginaw County, MI

Saginaw Bay Southern Railway Company (SBS), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from CSX Transportation, Inc. its contractual right to operate, via trackage rights, over approximately 6.84 miles of rail line owned by Huron & Eastern Railway Company, Inc. (HESR) in Saginaw County, MI, extending from a point 440 feet northeast of GTW milepost 40.96 along the Zilwaukee Spur at the Saginaw Station to milepost CBE 7.72 at the Paines Station.[1]

SBS certifies that its projected revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier. SBS further certifies that its projected annual revenues are expected to exceed $5 million. SBS has included a request in its notice filed on May 26, 2006, for waiver of the requirements of 49 CFR 1150.42(e) to permit the exemption to become effective without providing the 60-day advance notice. Finding no adverse impact on the affected employees, by decision served on June 19, 2006, the Board has granted SBS's request and waived the requirements of 49 CFR 1150.42(e).[2] The waiver decision has the effect of making the

[1] This notice was filed pursuant to the Board's May 5, 2006 decision directing SBS to file a new notice of exemption to acquire the authority sought here. *See Saginaw Bay Southern Railway Company—Acquisition and Operation Exemption—Rail line of CSX Transportation, Inc.*, STB Finance Docket No. 34729 (STB served May 5, 2006). SBS had inadvertently failed to include what would have been a grant of incidental trackage rights to operate over HESR's line in its notice of exemption filed on September 1, 2005, and thus did not have Board authority to operate over the subject line. *See Saginaw Bay Southern Railway Company—Acquisition and Operation Exemption—Rail line of CSX Transportation, Inc.*, STB Finance Docket No. 34729 (STB served and published in the **Federal Register** on Sept. 27, 2005) (70 FR 56525).

[2] *See Saginaw Boy Southern Railway Company—Acquisition and Operation Exemption—In Saginaw County, MI*, STB Finance Docket No. 34729 (Sub-No. 1) (STB served June 19, 2006).

exemption in this proceeding effective on June 19, 2006.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34729 (Sub-No. 1), must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Andrew B. Kolesar III, Slover & Loftus, 1224 17th Street, NW., Washington, DC 20036.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: June 19, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E6–9921 Filed 6–22–06; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 16, 2006.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before July 24, 2006 to be assured of consideration.

Federal Consulting Group

OMB Number: 1505–0164.

Type of Review: Extension.

Title: Reporting and Procedures Regulations 31 CFR Part 501.

Description: Submissions will provide the U.S Government with information to be used in enforcing various economic sanctions programs administered by OFAC less than 31 CFR Chapter V.

Respondents: Individuals and households; Business or other-for-profit; Not-for-profit institutions; Federal Government.

Estimated Total Reporting Burden: 26,300 hours.

Clearance Officer: Office of Foreign Assets Control, (202) 622–2500, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Annex—2nd Floor, Washington, DC 20220.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Michael A. Robinson,

Treasury PRA Clearance Officer.

[FR Doc. E6–9939 Filed 6–22–06; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 16, 2006.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before July 24, 2006 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0887.

Type of Review: Extension.

Title: Information Return for Publicly Offered Original Issue Discount Instruments.

Form: IRS 8281.

Description: Form 8281 is filed by the issuer of a publicly offered debt instrument having OID. The information is used to update Pub. 1212, List of Original Issue Discount Instruments.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 3,060 hours.

Clearance Officer: Glenn P. Kirkland, (202) 622–3428, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Michael A. Robinson,

Treasury PRA Clearance Officer.

[FR Doc. E6–9940 Filed 6–22–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8633

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8633, Application to Participate in the IRS *e-file* Program.

DATES: Written comments should be received on or before August 22, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665 or at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application to Participate in the IRS e-file Program.

OMB Number: 1545–0991.

Form Number: 8633.

Abstract: Form 8633 is used by tax preparers, electronic return collectors, software firms, service bureaus and electronic transmitters as an application to participate in the electronic filing program covering individual income tax returns.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 50,000.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 50,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 6, 2006.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–9910 Filed 6–22–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 97–34

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 97–34, Information Reporting on Transactions With Foreign Trusts and on Large Foreign Gifts.

DATES: Written comments should be received on or before August 22, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of notice should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service; room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Information Reporting on Transactions With Foreign Trusts and on Large Foreign Gifts.

OMB Number: 1545–1538.

Notice Number: Notice 99–34.

Abstract: Notice 97–34 provides guidance on the foreign trust and foreign gift information reporting provisions contained in the Small Business Job Protection Act of 1996.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 5,000.

Estimated Time per Respondent: 45 minutes.

Estimated Total Annual Burden Hours: 3,750.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 1, 2006.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–9912 Filed 6–22–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–103805–99]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–103805–99 (TD 9002), Agent for Consolidated Group (§ 1.1502–77).

DATES: Written comments should be received on or before August 22, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of regulations should be directed to Allan Hopkins, at (202) 622–6665, or at Room 6516, 1111 Constitution

Avenue NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Agent for Consolidated Group.

OMB Number: 1545–1699.

Regulation Project Number: REG–103805–99.

Abstract: The information is needed in order for a terminating common parent of a consolidated group to designate a substitute agent for the group and receive approval of the Commissioner, or for a default substitute agent to notify the Commissioner that it is the default substitute agent, pursuant to Treas. Reg. § 1.1502–77(d). The Commissioner will use the information to determine whether to approve the designation of the substitute agent (if approval is required) and to change the IRS's records to reflect the information about the substitute agent.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 100.

Estimated Time per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 200.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 19, 2006.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–9913 Filed 6–22–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 1 Taxpayer Advocacy Panel (Including the States of New York, Connecticut, Massachusetts, Rhode Island, New Hampshire, Vermont and Maine)

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 1 Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, July 18, 2006.

FOR FURTHER INFORMATION CONTACT: Audrey Y. Jenkins at 1–888–912–1227 (toll-free), or 718–488–2085 (non toll-free).

SUPPLEMENTARY INFORMATION: An open meeting of the Area 1 Taxpayer Advocacy Panel will be held Tuesday, July 18, 2006 from 9 a.m. ET to 10 a.m. ET via a telephone conference call. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 718–488–2085, or write Audrey Y. Jenkins, TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Audrey Y. Jenkins. Ms. Jenkins can be reached at 1–888–912–1227 or 718–488–2085, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: June 15, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6–9911 Filed 6–22–06; 8:45 am]

BILLING CODE 4830–01–P

Federal Register

Friday,
June 23, 2006

Part II

Environmental Protection Agency

40 CFR Part 26

Protections for Subjects in Human Research; Nursing Women; Direct Final Rule and Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 26

[EPA–HQ–OPP–2003–0132; FRL–8071–6]

RIN 2070–AD57

Protections for Subjects in Human Research; Nursing Women

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to explicitly ban research for pesticides involving intentional exposure of human subjects who are nursing women, and therefore providing protection to any nursing infants who may also be exposed. The direct final rule also prohibits EPA reliance in actions under the pesticide laws on research involving intentional exposure of nursing women.

DATES: This direct final rule is effective on August 22, 2006 without further notice, unless EPA receives adverse comment on or before July 24, 2006. If EPA receives adverse comments to the direct final rule, EPA will publish a timely withdrawal document in the **Federal Register** informing the public that this direct final rule rule will not take effect.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2003–0132, by one of the following methods:

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2003–0132. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov. The regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you 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: EPA has established a docket for this action under docket ID number EPA–HQ–OPP–2003–0132. All documents in the docket are listed in the index for the docket. Although listed in the docket index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not available through the electronic docket and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Public Regulatory Docket, in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation for this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: William L. Jordan, Office of Pesticide Programs (7501P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–1049; fax number: (703) 308–4776; e-mail address: *jordan.william@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. What Does this Direct Final Rule Do?

With this direct final rule, EPA clarifies the protections for subjects of "third-party" human research (i.e., research that is not conducted or supported by either EPA or by another Federal Department or Agency under the "Common Rule") by prohibiting new research involving intentional exposure of nursing women, intended for submission to EPA under the pesticide laws, thereby providing protection to any nursing infants who may also be exposed. This direct final rule also prohibits any EPA research involving intentional exposure of human subjects who are nursing women to pesticides or any other substances. (Research conducted by EPA is referred to as "first-party" research, and "second-party" research refers to research supported by EPA but performed by others. "Third-party" research refers to any research that is not "first-party" or "second-party" research.) Finally, this rule prohibits EPA reliance, in actions under the pesticide laws, on human research involving intentional exposure of nursing women as subjects.

B. Legal Authority

This direct final rule is authorized under provisions of the following statutes that EPA administers: Section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136–136y), which authorizes the Administrator to "prescribe regulations to carry out the purposes of [FIFRA]," and section 408(e)(1)(C) of the Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 346a). FFDCA authorizes the Administrator to issue a regulation establishing "general procedures and requirements to implement [Section 408]." In addition, the portions of this regulation supplementing EPA's codification of the Common Rule regarding first- and second-party research are authorized pursuant to 5 U.S.C. 301 and 42 U.S.C. 300v–1(b).

This direct final rule amends the recently promulgated "Protections for Subjects in Human Research Rule" (hereinafter referred to as the "January 2006 rule") to extend critical protections for human research subjects contained in that rule to nursing women and their nursing children. The January 2006 rule published in the **Federal Register** on February 6, 2006 (71 FR 6138) (FRL–7759–8). EPA is publishing this direct final rule without prior proposal because the Agency believes that these amendments are non-controversial and does not expect to receive adverse comments. Nevertheless, EPA is also publishing a separate document in the "Proposed Rules" section of this issue of the **Federal Register** that serves as the proposal to extend these critical protections for subjects of human

research to nursing women and their nursing children, in the event that adverse comments are submitted to EPA on or before July 24, 2006.

This direct final rule is effective on August 22, 2006 without further notice, unless EPA receives comments that are adverse to the direct final rule on or before July 24, 2006. If EPA receives comments that are adverse to this direct final rule, the Agency will publish a timely withdrawal document in the **Federal Register** informing the public that the direct final rule will not take effect on August 22, 2006. EPA will then address all public comments received in a subsequent final rule based on the proposed rule that is published in the "Proposed Rules" section of this issue of the **Federal Register**. The Agency will not institute a second comment period on this action. Any parties interested in commenting must do so at this time and must submit comments by the date indicated in this unit and in the proposed rule.

C. Does this Action Apply to Me?

You may be potentially affected by this action if you conduct human research on substances regulated by EPA. Potentially affected entities may include, but are not limited to, entities that conduct or sponsor research involving intentional exposure of human subjects that may be submitted to EPA under FIFRA or FFDCA. Although EPA has in the past received such third-party research from pesticide registrants, other entities could submit such information to EPA.

- Pesticide and other Agricultural Chemical Manufacturing (NAICS code 325320).

This listing is not intended to be exhaustive, but rather provides a guide regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions of 40 CFR part 26. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

D. How Can I Access Electronic Copies of this Document and Other Related Information?

You may access an electronic copy of this **Federal Register** document and the associated electronic docket at *http://www.regulations.gov*, or you may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr*. A frequently updated electronic version of the Code of Federal Regulations (CFR) is available at *http://www.gpoaccess.gov/ecfr*.

II. EPA's January 2006 Promulgation of Protections for Subjects of Human Research

On January 26, 2006, EPA issued a final rule significantly strengthening and expanding the protections for subjects of human research. For "third-party" human research (i.e., research that is not conducted or supported by either EPA or by another Federal Department or Agency under the Common Rule), that rule:

1. Prohibited new research involving intentional exposure of pregnant women or children, intended for submission to EPA under the pesticide laws.

2. Extended the provisions of the Federal Policy for the Protection of Human Subjects of Research (the "Common Rule") to other human research involving intentional exposure of non-pregnant adults, intended for submission to EPA under the pesticide laws.

3. Required submission to EPA of protocols and related information about covered human research before it is initiated.

4. Established an independent Human Studies Review Board to review both proposals for new research and reports of covered human research on which EPA proposes to rely under the pesticide laws.

The January 2006 rule also contained other, similar requirements for first- and second-party research, as well as standards to guide EPA decisionmaking under the pesticide laws involving reliance on the results of completed intentional dosing human research.

III. Protections for Children Potentially Exposed Through Nursing Women Who Are Subjects in Human Research

In the January 2006 rule, EPA provided additional protections for children, to prohibit their being intentionally exposed to test materials through human research. The Agency believed that it had achieved this goal by establishing a prohibition against the use of children as subjects in certain types of research involving intentional exposure of subjects. Since promulgation of the January 2006 rule, however, the Agency has been asked whether the final rule prohibits investigators from conducting, or EPA from relying on, research involving intentional exposure of nursing women, since use of nursing women as subjects of research could potentially result in exposure of nursing infants to the test material in nursing women's breast milk.

The Agency notes that it has not conducted or supported intentional dosing studies targeted at nursing women and has no intention to do so in the future. Moreover, under the January 2006 rule, if, in accordance with 40 CFR 26.1125, a third-party researcher submitted to EPA a proposal to perform such research, EPA would not approve the proposal. The Agency has concluded that such research should never be performed because of the potential that it might result in exposure of nursing children. Accordingly, EPA is amending the January 2006 rule to clarify that the prohibitions in the January 2006 rule against conduct of new research involving intentional exposure of pregnant women and children, and the prohibition of the Agency's reliance on completed research involving intentional exposure of pregnant women or children, apply as well to research involving intentional exposure of nursing women. The rule explicitly prohibits research involving intentional exposure of nursing women. EPA would consider a woman to be nursing if she is providing her breast milk to a child either during or after the research when the test material could be detected in her breast milk. (For purposes of applying the rule to research conducted after the effective date of this action, an investigator could document compliance by obtaining a statement from a female subject that she is not providing and does not intend to provide her breast milk to a child during the research and for a period of time after the research ends during which the test material could reasonably be detected in her breast milk. The Agency does not intend, however, to prohibit research involving intentional exposure of a woman as a research subject simply because at some indefinite, future time the woman hopes to breast-feed a child.)

In sum, the Agency believes that the kinds of explicit protections for children and pregnant women established by the January 2006 rule are equally appropriate for nursing women. Data indicate that some pesticides and other environmental substances pass into breast milk, but adequate data do not exist to characterize the fate of all substances that might be used in human research covered by the January 2006 rule. Therefore, consistent with the intent of the January 2006 rule to protect

children from exposure to test materials through intentional dosing studies, EPA is reinforcing the protection for children by prohibiting the following:

1. New research involving intentional exposure of nursing women conducted or supported by EPA.

2. New research involving intentional exposure of nursing women conducted by third-party investigators who intend to submit the results to EPA under the pesticide laws.

3. Reliance by EPA in its actions under the pesticide laws on research involving intentional exposure of nursing women.

(EPA notes that the absence of information about the nursing status of female subjects in a completed study does not justify application of the prohibition in § 26.1703.)

IV. FIFRA Review Procedures for the Direct Final Rule

FIFRA section 25(a)(2)(B) provides: "[a]t least 30 days prior to signing any regulation in final form for publication in the **Federal Register**, the Administrator shall provide the Secretary of Agriculture a copy of such regulation." This section also authorizes the Secretary to waive the opportunity to review and comment on final regulations. FIFRA section 25(d)(1) states that "[t]he Administrator shall submit to an advisory panel for comment [the] final form of regulations issued under section 25(a) within the same time periods as provided for the comments of the Secretary of Agriculture . . ." This subsection also authorizes the FIFRA Scientific Advisory Panel (SAP) to waive the opportunity for review. Both, the FIFRA SAP and the U.S. Department of Agriculture (USDA) have waived the opportunity under FIFRA to review the direct final rule.

In addition, FIFRA section 25(a)(3) states that "[a]t such time as the Administrator is required under paragraph (2) to provide the Secretary of Agriculture with . . . a copy of the final form of regulations, the Administrator shall also furnish a copy of such regulations to the Committee on Agriculture in the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate." Because USDA waived review under FIFRA section 25(a)(2)(B), EPA is not required to furnish a copy of the final regulations to the specified committees 30 days prior to signature of the direct final rule.

V. Statutory and Executive Order Reviews

A. Executive Order 12866

Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), the Office of Management and Budget (OMB) has determined that this direct final rule is not a "significant regulatory action" under section 3(f) of the Executive Order.

The amendments contained in this rule are not expected to result in a significant increase, if any, to the estimated impacts of the January 2006 rule, which are presented in a document entitled *Economic Analysis of the Human Studies Final Rule* (Economic Analysis), a copy of which is available in the docket for this rule.

Based on the relatively small economic impact of the January 2006 rule, EPA believes that this direct final rule will have a minimal—if any—impact on industry, regardless of the size of the entity.

B. Paperwork Reduction Act

This rule contains no new information collection requirements. Therefore no further analysis, review or OMB approval is required under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.* The information collection requirements contained in the January 2006 rule have been approved by OMB under OMB control number 2070–0169 (identified under EPA ICR No. 2195.02). A copy of the approved information collection request document is available in the docket for this rule.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

After considering the potential economic impacts of the January 2006 rule on small entities, the Agency concluded pursuant to section 605(b) of RFA that the January 2006 rule did not have a significant adverse economic impact on a substantial number of small entities. EPA has determined that the potential additional impact from this direct final rule, if any, is minimal. For purposes of assessing the impacts of the January 2006 rule on small entities, small entity was defined in accordance with the RFA as:

1. A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201.

2. A small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000.

3. A small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this direct final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The Agency's determination is based on the economic analysis performed for the January 2006 rule, a copy of which is available in the docket for this action.

D. Unfunded Mandates Reform Act

Under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4), EPA has determined that this action does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. This rule is expected to result in no more than a minor increase, if any, to the estimated impact of the January 2006 rule. The estimated total costs associated with the January 2006 rule are approximately $38,837 per year. Based on historical submissions, EPA has determined that State, local, and tribal governments rarely perform human research intended for submission to EPA under FIFRA or FFDCA. In addition, the direct final rule is not expected to significantly or uniquely affect small governments. Accordingly, this action is not subject to the requirements of sections 202 and 205 of UMRA.

E. Executive Order 13132

Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999), does not apply to this rule. EPA has determined that this rule does not have "federalism implications" because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in the Executive Order. As indicated earlier, instances where a State performs human research intended for submission to EPA under FIFRA or FFDCA are rare. Therefore, this direct

final rule may seldom affect a State government.

F. Executive Order 13175

Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (59 FR 22951, November 6, 2000), does not apply to this rule. EPA has determined that this rule does not have "tribal implications" because it will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in the Executive Order. As indicated previously, instances where a tribal government performs human research intended for submission to EPA under FIFRA or FFDCA are extremely rare.

G. Executive Order 13045

Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), does not apply to this rule because this action is not designated as an "economically significant" regulatory action as defined by Executive Order 12866. Furthermore, this rule does not establish an environmental standard that is intended to have a negatively disproportionate effect on children. To the contrary, this action will provide added protections for children with regard to the research covered by the rule.

H. Executive Order 13211

This rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) because this rule does not have any significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act

This rule does not impose any technical standards that would require Agency consideration of voluntary consensus standards under section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note) because it does not require specific methods or standards to generate data. The NTTAA directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, with explanations when the Agency decides not to use available and applicable voluntary consensus standards.

J. Executive Order 12898

This rule does not have an adverse impact on the environmental and health conditions in low-income and minority communities. Therefore, under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), the Agency is not required to consider environmental justice-related issues.

VI. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report that includes a copy of the rule to each House of the Congress and 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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 26

Environmental protection, Human research subjects, Reporting and recordkeeping requirements.

Dated: June 20, 2006.

Stephen L. Johnson,

Administrator.

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

PART 26—[AMENDED]

■ 1. The authority citation for part 26 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 136w(a)(1); 21 U.S.C. 346a(e)(1)(C); section 201 of Public Law No. 109–54; and 42 U.S.C. 300v–1(b).

■ 2. By revising the heading of subpart B to read as follows:

Subpart B—Prohibition of Research Conducted or Supported by EPA Involving Intentional Exposure of Human Subjects who are Children or Pregnant or Nursing Women

■ 3. By revising § 26.203 to read as follows:

§ 26.203 Prohibition of research conducted or supported by EPA involving intentional exposure of any human subject who is a pregnant woman (and therefore her fetus), a nursing woman, or child.

Notwithstanding any other provision of this part, under no circumstances shall EPA conduct or support research involving intentional exposure of any human subject who is a pregnant woman (and therefore her fetus), a nursing woman, or a child.

■ 4. By revising the heading of subpart K to read as follows:

Subpart K—Basic Ethical Requirements for Third-Party Human Research for Pesticides Involving Intentional Exposure of Non-pregnant, Non-nursing Adults

■ 5. By revising the heading of subpart L to read as follows:

Subpart L—Prohibition of Third-Party Research for Pesticides Involving Intentional Exposure of Human Subjects who are Children or Pregnant or Nursing Women

■ 6. By revising § 26.1203 to read as follows:

§ 26.1203 Prohibition of research involving intentional exposure of any human subject who is a pregnant woman (and therefore her fetus), a nursing woman, or a child.

Notwithstanding any other provision of this part, under no circumstances shall a person conduct or support research covered by § 26.1201 that involves intentional exposure of any human subject who is a pregnant woman (and therefore her fetus), a nursing woman, or a child.

■ 7. By revising § 26.1703 to read as follows:

§ 26.1703 Prohibition of reliance on research involving intentional exposure of human subjects who are pregnant women (and therefore their fetuses), nursing women, or children.

Except as provided in § 26.1706, in actions within the scope of § 26.1701 EPA shall not rely on data from any research involving intentional exposure of any human subject who is a pregnant woman (and therefore her fetus), a nursing woman, or a child.

■ 8. By revising the heading of § 26.1704 to read as follows:

§ 26.1704 Prohibition of reliance on unethical human research with non-pregnant, non-nursing adults conducted before April 7, 2006.

■ 9. By revising the heading of § 26.1705 to read as follows:

§ 26.1705 Prohibition of reliance on unethical human research with non-pregnant, non-nursing adults conducted after April 7, 2006.

[FR Doc. 06–5649 Filed 6–22–06; 8:45 am]
BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 26

[EPA–HQ–OPP–2003–0132; FRL–8074–8]

RIN 2070–AD57

Protections for Subjects in Human Research; Nursing Women

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to amend EPA's final rule promulgated on January 26, 2006, concerning the protection of human subjects in research. The proposed amendments would explicitly ban research for pesticides involving intentional exposure of human subjects who are nursing women, and prohibit EPA reliance in actions under the pesticide laws on research involving intentional exposure of nursing women. EPA believes that these proposed amendments are non-controversial and does not expect to receive any adverse comments. Therefore, in addition to this Notice of Proposed Rulemaking, elsewhere in this issue of the **Federal Register**, EPA is promulgating these amendments as a direct final rule.

DATES: Written comments must be received on or before July 24, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2003–0132, by one of the following methods:

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2003–0132. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov/*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov. The regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you 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. EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2003–0132. All documents in the docket are listed in the index for the docket. Although listed in the docket index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not available through the electronic docket and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Public Regulatory Docket, in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation for this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: William L. Jordan, Office of Pesticide Programs (7501P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–1049; fax number: (703) 308–4776; e-mail address: *jordan.william@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you conduct human research on substances regulated by EPA. Potentially affected entities may include, but are not limited to, entities that conduct or sponsor research involving intentional exposure of human subjects that may be submitted to EPA under FIFRA or FFDCA. Although EPA has in the past received such third-party research from pesticide registrants, other entities could submit such information to EPA.

- Pesticide and other Agricultural Chemical Manufacturing (NAICS code 325320).

This listing is not intended to be exhaustive, but rather provides a guide regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions of 40 CFR part 26. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Access Electronic Copies of this Document and Other Related Information?

You may access an electronic copy of this **Federal Register** document and the associated electronic docket at *http://www.regulations.gov*, or you may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr*. A frequently updated electronic version of the Code of Federal Regulations (CFR) is available at *http://www.gpoaccess.gov/ecfr*.

II. Context for the Proposed Rulemaking

On January 26, 2006, EPA issued a final rule significantly strengthening and expanding the protections for subjects of human research (hereinafter referred to as the "January 2006 rule"). The final rule appeared in the **Federal Register** on February 6, 2006 (71 FR 6138) (FRL–7759–8). For "third-party" human research (i.e., research that is not conducted or supported by either EPA or by another federal department or agency under the Common Rule), that rule:

1. Prohibited new research involving intentional exposure of pregnant women or children, intended for submission to EPA under the pesticide laws.

2. Extended the provisions of the Federal Policy for the Protection of Human Subjects of Research (the "Common Rule") to other human research involving intentional exposure of non-pregnant adults, intended for submission to EPA under the pesticide laws.

3. Required submission to EPA of protocols and related information about covered human research before it is initiated.

4. Established an independent Human Studies Review Board to review both proposals for new research and reports of covered human research on which EPA proposes to rely under the pesticide laws.

The January 2006 rule also contained other, similar requirements for first- and second-party research, as well as standards to guide EPA decision-making under the pesticide laws involving reliance on the results of completed intentional dosing human research.

Elsewhere in this issue of the **Federal Register**, EPA is promulgating the proposed amendments as a direct final rule that extends the critical protections for human research subjects contained in the January 2006 final rule to nursing women and their nursing children. EPA is promulgating these amendments as a direct final rule without prior proposal because the Agency believes that these amendments to the January 2006 rule are non-controversial and does not expect to receive adverse comments. The Agency's reasons for these amendments are explained in the preamble to the direct final rule.

If EPA does not receive adverse comments on the direct final rule, the Agency will not take further action on this proposed rule. If EPA receives comments adverse to the direct final rule, the Agency will withdraw the direct final rule and it will not take effect. EPA will then address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time, and must submit comments on or before July 24, 2006. EPA considers "comments adverse to the direct final rule" to be comments that explicitly state that the protections afforded research subjects under the Protections for Subjects in Human Research Rule should not be extended to nursing mothers and their nursing children.

III. Protections for Children Potentially Exposed Through Nursing Women Who Are Subjects in Human Research

In the January 2006 rule, EPA provided additional protections for children, to prohibit their being intentionally exposed to test materials through human research. The Agency believed that it had achieved this goal by establishing a prohibition against the use of children as subjects in certain types of research involving intentional exposure of subjects. Since promulgation of the January 2006 rule, however, the Agency has been asked whether the final rule prohibits investigators from conducting, or EPA from relying on, research involving intentional exposure of nursing women, since use of nursing women as subjects of research could potentially result in exposure of nursing infants to the test material in nursing women's breast milk.

The Agency notes that it has not conducted or supported intentional dosing studies targeted at nursing women and has no intention to do so in the future. Moreover, under the January 2006 rule, if, in accordance with 40 CFR 26.1125, a third-party researcher submitted to EPA a proposal to perform such research, EPA would not approve the proposal. The Agency has concluded that such research should never be performed because of the potential that it might result in exposure of nursing children. Accordingly, EPA is amending the January 2006 rule to clarify that the prohibitions in the January 2006 rule against conduct of new research involving intentional exposure of pregnant women and children, and the prohibition of the Agency's reliance on completed research involving intentional exposure of pregnant women or children, apply as well to research involving intentional exposure of nursing women. This proposed rule explicitly prohibits research involving intentional exposure of nursing women. EPA would consider a woman to be nursing if she is providing her breast milk to a child either during or after the research when the test material could be detected in her breast milk. (For purposes of applying the rule to research conducted after the effective date of these proposed amendments, an investigator could document compliance by obtaining a statement from a female subject that she is not providing and does not intend to provide her breast milk to a child during the research and for a period of time after the research ends during which the test material could reasonably be detected in her breast milk. The Agency does not intend, however, to prohibit research involving intentional exposure of a woman as a research subject simply because at some indefinite, future time the woman hopes to breast-feed a child.)

In sum, the Agency believes that the kinds of explicit protections for children and pregnant women established by the January 2006 rule are equally appropriate for nursing women. Data indicate that some pesticides and other environmental substances pass into breast milk, but adequate data do not exist to characterize the fate of all substances that might be used in human research covered by the January 2006 rule. Therefore, consistent with the intent of the January 2006 rule to protect children from exposure to test materials through intentional dosing studies, EPA is reinforcing the protection for children by prohibiting the following:

1. New research involving intentional exposure of nursing women conducted or supported by EPA.

2. New research involving intentional exposure of nursing women conducted by third-party investigators who intend to submit the results to EPA under the pesticide laws.

3. Reliance by EPA in its actions under the pesticide laws on research involving intentional exposure of nursing women.

(EPA notes that the absence of information about the nursing status of female subjects in a completed study does not justify application of the prohibition in § 26.1703.)

IV. FIFRA Review Procedures for the Final Rule

FIFRA section 25(a)(2)(A) provides: "[a]t least 60 days prior to signing any proposed regulation for publication in the **Federal Register**, the Administrator shall provide the Secretary of Agriculture a copy of such regulation." Section 25(a)(2)(C) authorizes the Administrator and the Secretary to waive the opportunity to review and comment on final regulations. FIFRA section 25(d)(1) requires that the Administrator shall submit to the Scientific Advisory Panel for comment proposed rules issued under section 25(a) within the same time periods as provided for the comments of the Secretary of Agriculture. Section 25(a) also authorizes the FIFRA Scientific Advisory Panel to waive the opportunity for review. Both, the FIFRA Scientific Advisory Panel (SAP) and the U.S. Department of Agriculture (USDA) have waived the opportunity under FIFRA to review the proposed rule.

In addition, FIFRA section 25(a)(3) states that "[a]t such time as the Administrator is required under paragraph (2) of this subsection to provide the Secretary of Agriculture with a copy of proposed regulations. . ., the Administrator shall also furnish a copy of such regulations to the

Committee on Agriculture in the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate." Because USDA waived review under FIFRA section 25(a)(2)(C), EPA is not required to furnish a copy of the final regulations to the specified committees 60 days prior to signature of the proposed rule.

V. Statutory and Executive Order Reviews

A. Executive Order 12866

Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), the Office of Management and Budget (OMB) has determined that this proposed rule is not a "significant regulatory action" under section 3(f) of the Executive Order.

The amendments contained in this proposed rule are not expected to result in a significant increase, if any, to the estimated impacts of the January 2006 rule, which are presented in a document entitled *Economic Analysis of the Human Studies Final Rule* (Economic Analysis), a copy of which is available in the docket for this proposed rule.

Based on the relatively small economic impact of the January 2006 rule, EPA believes that this proposed rule will have a minimal–if any–impact on industry, regardless of the size of the entity.

B. Paperwork Reduction Act

This proposed rule contains no new information collection requirements. Therefore no further analysis, review or OMB approval is required under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq*. The information collection requirements contained in the January 2006 rule have been approved by OMB under OMB control number 2070–0169 (identified under EPA ICR No. 2195.02). A copy of the approved information collection request document is available in the docket for this proposed rule.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

After considering the potential economic impacts of the January 2006 rule on small entities, the Agency concluded pursuant to section 605(b) of the RFA that the January 2006 rule did not have a significant adverse economic impact on a substantial number of small entities. EPA has determined that the potential additional impact from this amendment, if any, is minimal. For purposes of assessing the impacts of the January 2006 rule on small entities, small entity was defined in accordance with the RFA as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The Agency's determination is based on the economic analysis performed for the January 2006 rule, a copy of which is available in the docket for this action.

D. Unfunded Mandates Reform Act

Under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4), EPA has determined that this action does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. This proposed rule is expected to result in no more than a minor increase, if any, to the estimated impact of the January 2006 rule. The estimated total costs associated with the January 2006 rule are approximately $38,837 per year. Based on historical submissions, EPA has determined that State, local, and tribal governments rarely perform human research intended for submission to EPA under FIFRA or FFDCA. In addition, the proposed rule is not expected to significantly or uniquely affect small governments. Accordingly, this action is not subject to the requirements of sections 202 and 205 of UMRA.

E. Executive Order 13132

Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999), does not apply to this proposed rule. EPA has determined that this proposed rule does not have "federalism implications" because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in the Executive Order. As indicated earlier, instances where a State performs human research intended for submission to EPA under FIFRA or FFDCA are rare. Therefore, this proposed rule may seldom affect a State government.

F. Executive Order 13175

Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (59 FR 22951, November 6, 2000), does not apply to this proposed rule. EPA has determined that this proposed rule does not have "tribal implications" because it will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in the Executive Order. As indicated previously, instances where a tribal government performs human research intended for submission to EPA under FIFRA or FFDCA are extremely rare.

G. Executive Order 13045

Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997) does not apply to this proposed rule because this action is not designated as an "economically significant" regulatory action as defined by Executive Order 12866. Furthermore, this proposed rule does not establish an environmental standard that is intended to have a negatively disproportionate effect on children. To the contrary, this action will provide added protections for children with regard to the research covered by the proposed rule.

H. Executive Order 13211

This proposed rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) because this proposed rule does not have any significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act

This proposed rule does not impose any technical standards that would require Agency consideration of

voluntary consensus standards under section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note), because it does not require specific methods or standards to generate data. The NTTAA directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, with explanations when the Agency decides not to use available and applicable voluntary consensus standards.

J. Executive Order 12898

This proposed rule does not have an adverse impact on the environmental and health conditions in low-income and minority communities. Therefore, under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), the Agency is not required to consider environmental justice-related issues.

List of Subjects in 40 CFR Part 26

Environmental protection, Human research subjects, Reporting and recordkeeping requirements.

Dated: June 20, 2006.

Stephen L. Johnson.

Administrator.

■ Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 26—[AMENDED]

1. The authority citation for part 26 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 136w(a)(1); 21 U.S.C. 346a(e)(1)(C); section 201 of Public Law No. 109–54; and 42 U.S.C. 300v–1(b).

2. By revising the heading of subpart B to read as follows:

Subpart B—Prohibition of Research Conducted or Supported by EPA Involving Intentional Exposure of Human Subjects who are Children or Pregnant or Nursing Women

3. By revising § 26.203 to read as follows:

§ 26.203 Prohibition of research conducted or supported by EPA involving intentional exposure of any human subject who is a pregnant woman (and therefore her fetus), a nursing woman, or child.

Notwithstanding any other provision of this part, under no circumstances shall EPA conduct or support research involving intentional exposure of any human subject who is a pregnant woman (and therefore her fetus), a nursing woman, or a child.

4. By revising the heading of subpart K to read as follows:

Subpart K—Basic Ethical Requirements for Third-Party Human Research for Pesticides Involving Intentional Exposure of Non-pregnant, Non-nursing Adults

5. By revising the heading of subpart L to read as follows:

Subpart L—Prohibition of Third-Party Research for Pesticides Involving Intentional Exposure of Human Subjects who are Children or Pregnant or Nursing Women

6. By revising § 26.1203 to read as follows:

§ 26.1203 Prohibition of research involving intentional exposure of any human subject who is a pregnant woman (and therefore her fetus), a nursing woman, or a child.

Notwithstanding any other provision of this part, under no circumstances shall a person conduct or support research covered by § 26.1201 that involves intentional exposure of any human subject who is a pregnant woman (and therefore her fetus), a nursing woman, or a child.

7. By revising § 26.1703 to read as follows:

§ 26.1703 Prohibition of reliance on research involving intentional exposure of human subjects who are pregnant women (and therefore their fetuses), nursing women, or children.

Except as provided in § 26.1706, in actions within the scope of § 26.1701 EPA shall not rely on data from any research involving intentional exposure of any human subject who is a pregnant woman (and therefore her fetus), a nursing woman, or a child.

8. By revising the heading of § 26.1704 to read as follows:

§ 26.1704 Prohibition of reliance on unethical human research with non-pregnant, non-nursing adults conducted before April 7, 2006.

9. By revising the heading of § 26.1705 to read as follows:

§ 26.1705 Prohibition of reliance on unethical human research with non-pregnant, non-nursing adults conducted after April 7, 2006.

[FR Doc. 06–5648 Filed 6–22–06; 8:45 am]

BILLING CODE 6560–50–S

Federal Register

Friday,
June 23, 2006

Part III

The President

Notice of June 22, 2006—Continuation of the National Emergency With Respect to the Western Balkans

Federal Register
Vol. 71, No. 121
Friday, June 23, 2006

Presidential Documents

Title 3—

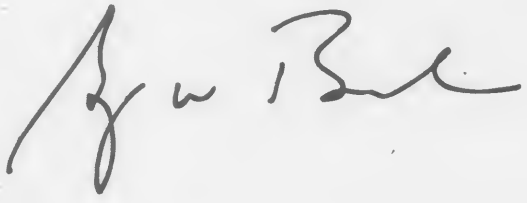
The President

Notice of June 22, 2006

Continuation of the National Emergency With Respect to the Western Balkans

On June 26, 2001, by Executive Order 13219, I declared a national emergency with respect to the Western Balkans pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions of persons engaged in, or assisting, sponsoring, or supporting (i) extremist violence in the Republic of Macedonia, and elsewhere in the Western Balkans region, or (ii) acts obstructing implementation of the Dayton Accords in Bosnia or United Nations Security Council Resolution 1244 of June 10, 1999, in Kosovo. Subsequent to the declaration of the national emergency, the actions of persons obstructing implementation of the Ohrid Framework Agreement of 2001 in the Republic of Macedonia also became a pressing concern. I amended Executive Order 13219 on May 28, 2003, in Executive Order 13304 to address this concern and to take additional steps with respect to the national emergency. Because the actions of persons threatening the peace and international stabilization efforts in the Western Balkans continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, the national emergency declared on June 26, 2001, and the measures adopted on that date and thereafter to deal with that emergency, must continue in effect beyond June 26, 2006. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to the Western Balkans.

This notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,
June 22, 2006.

[FR Doc. 06–5697
Filed 6–22–06; 10:15 am]
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Mine Improvement and New Emergency Response Act of 2006 (June 15, 2006; 120 Stat. 493)

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109th Congress

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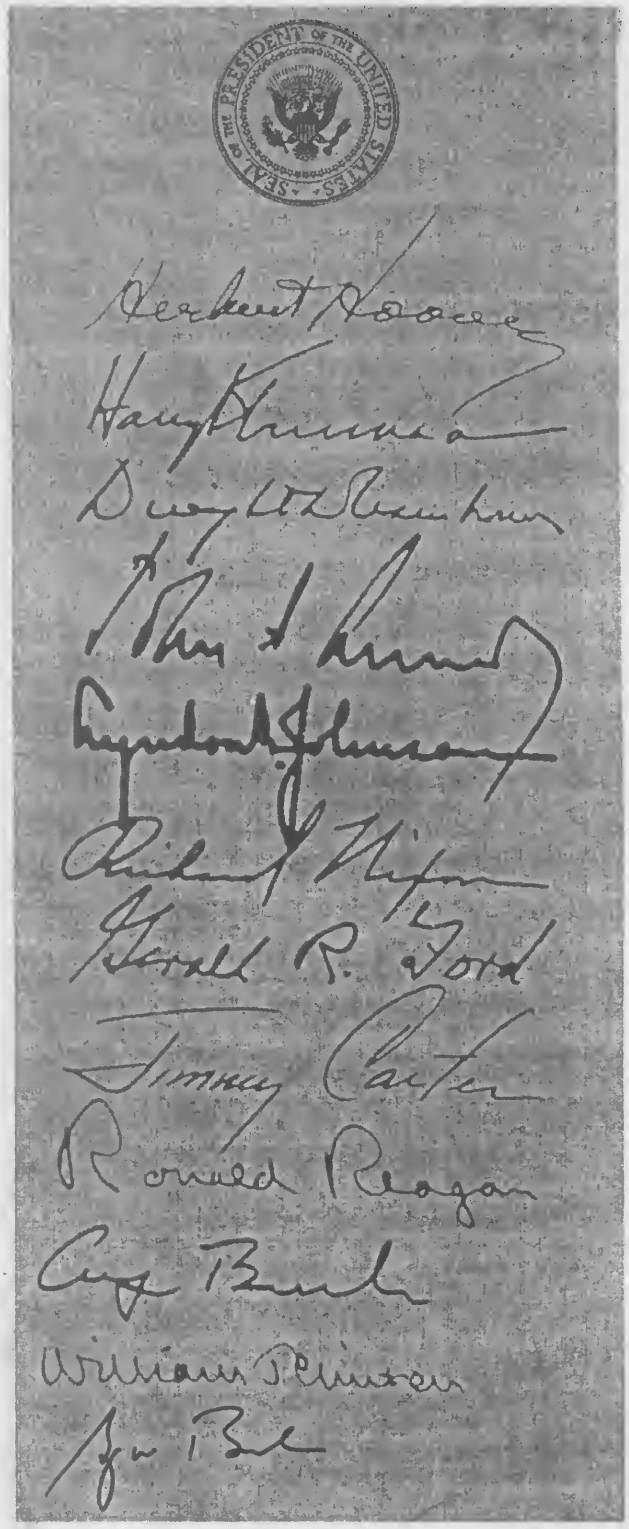

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